

Client *ALERT*

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ATTORNEY/CLIENT COMMUNICATION

Dear Client:

The California Supreme Court has issued its decision in the *Brinker Restaurant Corp. v. Superior Court* case, clarifying California law regarding meal periods and rest breaks. The decision offered a big win for employers regarding the nature of an employer's duty to provide meal periods. The Court held that employers must relieve employees of all duty during a meal period so that a meal period can be taken, but employers need not ensure that employees actually take meal periods.

However, *Brinker* is not a license to set aside meal period compliance. It may be very easy for an employee who appears to be voluntarily working through meal periods to later claim s/he was required to work through meal periods in order to support a claim for unpaid meal period premium pay. Consequently, employers should develop procedures to confirm they provided their employees with time to take duty-free meal periods.

Moreover, the *Brinker* court held that claims for rest break (and presumably meal period) violations may be certifiable if an employer's policies are facially non-compliant with the law. Consequently, it is critically important for employers to ensure their policies and procedures for managing meal periods and rest breaks conform to the rules provided by the *Brinker* court.

All California employers should carefully review their meal period and rest break policies and procedures to make sure those policies and procedures track the Supreme Court's interpretation of the Labor Code and Wage Orders. California employers should also train managers regarding how to manage meal periods and rest breaks, and they should train employees about when they are entitled to take meal periods and rest breaks. If you need support in this regard, contact your legal counsel.