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Brinker - Supreme Court Decision Lessons Burden On California Employers with Regard to Meal and Rest Periods

Today the California Supreme Court handed down a landmark decision in the matter of *Brinker v. Superior Court* that will have employers across the state breathing a sigh of relief.

The main issue before the Court was to determine whether the requirement that employers “**provide**” employees with meal and rest periods was intended simply to ensure that employers make such rest periods available to employees to use at their own option, or if there is actually an affirmative duty on the part of the employer to make sure that an employee takes all meal and rest periods and no work is performed during such times.

The Court ultimately concluded in favor of the former, finding that while an employer does have a duty to provide employees with ‘duty free’ meal and rest periods, the employer **does not** have a responsibility to ensure that no work is done during these times. Indeed, the Court found that imposing such an obligation upon employers to police meal breaks would be inconsistent with the fundamental principle behind providing rest periods in the first place, as these periods were intended to give employees temporary relief from their work duties and time outside the control of their employers to spend as they wish.

As such, under the *Brinker* decision, employers will not run afoul of their obligations under the law **so long as** they willingly provide their employees with the reasonable opportunity to take uninterrupted breaks from their work duties **and** allow them the freedom to spend such time as they choose.

The Court also clarified that employees are to receive 10 minutes for each four hours of work or “major fraction thereof”(generally meaning any fraction greater than half, i.e. as applied to a four-hour period to mean any amount of time in excess of two hours) and are to receive a first 30 minute meal period after no more than 5 hours of work and a second 30 minute meal period after no more than 10 hours of work.

If you have any questions or would like further information regarding this issue, please contact **Ross Schwartz**, **Dick Semerdjian**, **Sarah Evans** or **Sierra Spitzer**.