

Labor and Employment Alert

California Supreme Court Holds Employers Are Obligated Only To Provide, Not Ensure, Their Employees Take Meal Periods

April 12, 2012

The California Supreme Court has issued its highly-anticipated opinion in *Brinker Restaurant Corp. et al. v. Superior Court (Hohnbaum)* (No. S166350), which was argued on behalf of Brinker by Rex Heinke, co-chair of Akin Gump's Supreme Court and Appellate Practice Group.

Most importantly, the Court held that under California law, employers must only **provide** their employees with a 30-minute meal period for every five hours they work, not **ensure** that their employees take a 30-minute meal.

Second, on the early lunch issue, the Court held that an employer must provide a meal break for every five hours of work, but an employer does not have to provide a meal after each five hours of work.

Third, the Court held that a rest break must be provided for each of these periods of work: 3.5 to 6 hours; 6 to 10 hours; and 10 to 14 hours.

Fourth, the Court held that rest breaks do not have to be provided before meal breaks.

Fifth, the Court held that no off-the-clock class could be certified.

The case was remanded to the trial court to decide class certification under the provide standard.

CONTACT INFORMATION

If you have any questions concerning this alert, please contact—

Rex Heinke
rheinke@akingump.com
310.229.1030
Los Angeles – Century City

Gregory W. Knopp
gknopp@akingump.com
310.552.6436
Los Angeles – Century City

Donna M. Mezias
dmezias@akingump.com
415.765.9575
San Francisco

Daniel L. Nash
dnash@akingump.com
202.887.4067
Washington D.C.



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