

Supreme Court and Appellate Alert

California Supreme Court Sets Supplemental Briefing Schedule in Brinker Case

December 15, 2011

On December 14, 2011, the California Supreme Court ordered an additional round of briefing in *Brinker Restaurant Corp. et al. v. Superior Court* (No. S166350), and extended its time to rule from February 6, 2012 until April 12, 2012.

Having already ordered that the parties were permitted to file answers to the amicus curiae brief filed by the California Employment Law Council on December 2, 2011, the Court has now ordered that all parties may file simultaneous replies to those answer briefs by January 13, 2012. The answer and reply briefs will address whether portions of the Court's eventual decision on the merits, including the proper timing of meal breaks (the "Rolling Five issue"), should be applied prospectively or retroactively. The Supreme Court also extended its time to rule by vacating its original November 8, 2011 submission of the case, and ordering that the case be resubmitted when supplemental briefing is complete on January 13, 2012. The Court has 90 days from the new submission date, or until April 12, 2012, to issue its decision.

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