

Brinker Decision Reverberates Through California's Workplaces, Says Employers Group

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Ruling by State Court of Appeal Relieves Employers of Burden to Ensure that Employees Take Meal and Rest Breaks

In a major victory for the business community, the Court of Appeal, Fourth District, Division 1, California unanimously reversed a decision by a lower court in *Brinker Restaurant Corporation v The Superior Court of San Diego County*, ruling that employers are only required to provide meal and rest breaks for their workers, not ensure that breaks are taken.

The 53-page ruling by the Appeals court also states that employers couldn't be held liable for employees working off the clock unless they knew they were doing so.

The court ruled that none of the above issues could be certified as class actions, because they involve individual claims that must be handled separately in possibly thousands of 'mini-trials.'

Mark Wilbur, President and Chief Executive Officer of Employers Group, an employers' human resources expert and advocate, stated that an amicus brief was written and filed on behalf of Brinker by attorney Richard Simmons, a partner in Sheppard Mullin Richter & Hampton LLP and a member of Employers Group's Legal Committee.

According to Wilbur, the Appellate Court's decision has critical importance for the business community:

'This is a big victory for employers that culminates a 6-year battle, during which several class actions were filed, daily. Had the court ruled differently, the cost to employers would have been devastating,' says Wilbur.

Attorney Simmons credits Employers Group with its influence on the results of the appeal:

'Employers Group should be proud to announce the role it played in the positive outcome. Employers owe a debt of gratitude to Employers Group for financing efforts to offer a proper point of view to the court.'

Simmons notes that the amicus brief written by Sheppard Mullin was cited with approval by the Court of Appeal in construing California law in a manner highly favorable to employers.

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