

BREAKING NEWS: EMPLOYERS HAVE NO OBLIGATION TO ENSURE EMPLOYEES TAKE THEIR MEAL BREAKS

This morning, the California Supreme Court issued the employer-friendly ruling we have been waiting for (and that plaintiff's lawyers have been dreading): Employers are not required to police their employees' use of meal breaks.

Hoge Fenton's Employment Law Group will present a comprehensive discussion of this important and long-awaited opinion in its May 2012 seminars. To register, please [click here](#). For now, here's a summary of the primary meal break issue and ruling, as well as a link to the full California Supreme Court opinion:

The Basic Meal Break Requirement:

Non-exempt employees are entitled to a 30-minute duty-free meal break whenever they work at least 5 hours in a day, unless the day's work will be completed within 6 hours.

The Issue:

Based on two competing statutes, there has been a hard-fought legal battle as to whether employers must ensure that employees take their required meal breaks and remain off-duty for at least 30 minutes, or must simply provide employees with the opportunity to take their meal breaks. As many employers have expressed over the past decade, it can be extremely difficult to police meal breaks of employees who telecommute or work in the field unsupervised. Even where all of a company's employees work onsite, it can be difficult to track multiple employees' daily meal break usage and further ensure that employees perform no work for at least 30 minutes while on break (i.e., a 27-minute break would constitute a violation). Nevertheless, the Division of Labor Standards Enforcement (which encompasses the Office of the Labor Commissioner) has long held the position that employers are obligated to both provide the meal breaks and ensure they are taken for at least 30 minutes.

The California Supreme Court's Ruling:

The California Supreme Court ruled earlier today that, "An employer's obligation is to relieve its employees of all duty, with the employee thereafter at liberty to use the meal period for whatever

purpose he or she desires, but the employer need not ensure that no work is done."

This ruling provides California employers with long-awaited certainty, and thwarts the efforts of those who seek to build a case for themselves by intentionally skipping meal breaks, sending work-related emails while on lunch, returning from meal breaks early, etc. No longer will the law protect someone who voluntarily chooses to refuse a meal break he or she has been provided.

The Caveat:

While significantly loosening the restraints on California employers through its ruling, the Court confirmed that employers still remain obligated to relieve their non-exempt employees of all duty during meal breaks, relinquish control over employees' activities and permit them a reasonable opportunity to take an uninterrupted 30-minute break, and not impede or discourage employees from doing so. The Court noted that the steps an employer must take to satisfy these obligations "may vary from industry to industry." However, the Court made a point to specifically note that if an employee is given the opportunity to take a 30-minute duty-free meal break and "chooses" to spend that time benefiting his employer by performing work, the employer has nevertheless satisfied its obligation.

Conclusion:

Employers across the state can breathe a sigh of relief based on this important clarification to California wage and hour law (particularly those in pending or threatened litigation over this meal break issue). While California remains a far cry from being an employer-friendly state, this positive ruling from the state's highest court provides much-needed clarity on what has proven to be a challenging issue for many employers who strive to comply with their legal obligations.

Click here to view the full California Supreme Court opinion.

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For advice regarding this topic or any other employment law matter, please contact Sarju or Jenn Protas:

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