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KD Alert: Brinker Decision Clarifies Employer's Obligation to Provide Meal Breaks

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California employers have been patiently waiting for the State Supreme Court to determine the parameters of an employer's obligations when "providing" meal periods to employees, and the decision is finally here. Today, the California Supreme Court issued its opinion in Brinker v. Superior Court (Hohnbaum), concluding that "the employer need not ensure that no work is done during an employee's meal period." The employer satisfies their obligation under the meal period provision "if it relieves its employees of all duty, relinquishes control over their activities and permits them a reasonable opportunity to take an uninterrupted 30-minute break, and does not impede or discourage them from doing so." The Court's approach seeks to provide balance in the workplace—allowing employees to take their breaks, while also accounting for scheduling flexibility based on the wishes of the employee and the inherent demands of their job duties. From the employer's perspective, the ruling removes the burden of the meal period penalty payment when an employee voluntarily misses a meal period.

While California requires employers to "provide" employees who work five hours or more with a thirty-minute off-duty unpaid meal period, the scope of this language has not been without confusion and much debate. Indeed, the definition and scope of "provide" has been the hot topic among wage and hour practitioners for years. As expected, Brinker states that an employer's obligation to "provide" ends at making meal periods available to eligible employees, with a prohibition against dissuading or impeding employees from taking their break. The Brinker decision confirms that the employer need not "ensure" employees take their breaks. Whether to take a break or not, the Court left entirely to the employee.

This decision will no doubt yield a positive result for those employers involved in class action lawsuits over their meal period policies. If an employer's meal break policy is compliant under Brinker, and employers do not require employees to take their meal period, then there should be sufficient individualized issues concerning missed meal periods to make a strong argument against certification.

The Court also clarified how employers must treat the rolling-five-hour issue. Again, the Court found an appropriate balance between an employee's right to a well-deserved break with an employer's need to staff their business by holding that the meal period requirement "imposes no meal timing requirements beyond those [Labor Code] in section 512" and "an employer's obligation is to provide a first meal period after no more than five hours of work and a second meal period after no more than 10 hours of work."

There will very likely still be some growing pains as the courts deal with various scenarios, implementation strategies and hiccups in the aftermath of Brinker. Companies should work closely with their HR staffs and employment counsel to design training programs for managers, employees and payroll staff. Existing meal and rest period policies and practices must be reviewed in order to determine what changes, if any, are needed in light of the Brinker decision.

For more information on these matters, contact the attorneys in KD's Employment Law practice group or visit us at www.kaufmandolowich.com.