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Court Gives Some Employers A Break On Meal Period Flexibility

By David D. Kadue and Geoffrey C. Westbrook

California's Labor Code section 512, as applied by the California Supreme Court in its 2012 decision in *Brinker Restaurant Corp. v. Superior Court*, requires employers to make available a 30-minute off-duty meal period for every shift worked by a non-exempt employee that exceeds five hours.

On August 27, 2014, in *Araquistain v. Pacific Gas & Electric Co.*, the California Court of Appeal examined one of the few statutory exemptions to Section 512. This exemption, created by 2010 amendments, enables employers in specific industries to adopt alternative meal period arrangements through collective bargaining.

The Facts

Union-represented employees of Pacific Gas & Electric Co. sued PG&E to collect penalties owed for allegedly denied meal periods. Under the collective bargaining agreement between PG&E and the employees' union, the employees were entitled to eat a meal during their eight-hour shift as time and daily work obligations permitted, but they were not entitled to take a duty-free, uninterrupted, thirty-minute meal period. The employees claimed they routinely could not find any time at all to eat, that they had to remain on-site while being consistently interrupted with service calls, and that they often ate lunch while driving to a project.

The employees claimed that PG&E had failed to provide meal periods as required by Section 512, as interpreted by *Brinker*. PG&E defended its practices by relying on the exemption created by newly adopted subdivisions (e) and (f) of Labor Code section 512.

Labor Code sections 512(e) and (f) exempt certain employees in certain industries from the meal-period requirements of Section 512(a). Among those exempted are certain employees of electric and gas businesses who are covered by a valid collective bargaining agreement that "expressly provides for meal periods for those employees."

The Trial Court's Decision

On cross motions for summary judgment, the trial court ruled for PG&E, concluding that PG&E's paid on-duty meal period policy, reflected in its collective bargaining agreement, "expressly" provided for "meal periods" to employees covered under a "valid collective bargaining agreement" as described in Section 512(e).

The Appellate Court Decision

The employees argued that California law requires employers to provide "meal periods," not simply meals, and that "meal periods" means a "discrete amount of time" during which employees are relieved of all work duties in order to be able to eat a meal. The employees argued that PG&E's collective bargaining agreement was defective in this respect because PG&E did not secure the right to a meal period, but rather only authorized employees to eat lunch as permitted by their work schedules.

The Court of Appeal disagreed. The court reasoned that the Legislature, by amending Section 512, intended to afford additional flexibility in providing meal periods to employees in specific occupations, where the interests on those employees are protected through collective bargaining. The PG&E employees here were union-represented and had a satisfactory alternative arrangement for meal periods, as reflected in a valid collective bargaining agreement. Under those circumstances, subdivisions (e) and (f) of Section 512 operate to exempt employers from ordinary meal period obligations—including timing, duration, and other details—and therefore PG&E was entitled to summary judgment.

What *Araquistain* Means for Employers

Araquistain's affirmation of alternative meal period arrangements is important for unionized employers in construction, commercial driving, electrical, gas, and other specified industries in need of greater flexibility on timing and other aspects of meal periods. But employers must be mindful of all of the requirements that they must satisfy to avoid the requirements of Section 512.

David D. Kadue is a partner in Seyfarth's Los Angeles office and *Geoffrey C. Westbrook* is an associate in the firm's Sacramento office. If you would like further information, please contact your Seyfarth Shaw LLP attorney, David D. Kadue at *dkadue@seyfarth.com* or Geoffrey C. Westbrook at *gwestbrook@seyfarth.com*.