

## OUR INSIGHTS

### California Supreme Court Takes a Stand on Employers' Obligations to Provide Seating

**Author:** Hera S. Arsen, Ph.D. (Torrance)

**Published Date:** April 4, 2016

On April 4, 2016, the Supreme Court of California ruled on employers' obligations, under certain circumstances, to provide seating for employees under Industrial Welfare Commission Wage Order No. 7-2001, which states that "[a]ll working employees shall be provided with suitable seats when the nature of the work reasonably permits the use of seats." The court addressed three primary questions in the case: how expansively "nature of the work" should be interpreted, how courts should decide whether the nature of the work "reasonably permits" sitting, and whether a worker must prove that a suitable seat was available and was not provided in order to show that the employer violated the seating provision.

The court answered the three questions as follows:

1. The phrase "nature of the work" contained in the wage order refers to the tasks an employee performs at a given location for which the employee is claiming a right to a suitable seat—and *not* to "the entire range of an employee's duties anywhere on the jobsite during a complete shift." According to the court, if an employee's tasks "at a given location reasonably permit sitting, and provision of a seat would not interfere with performance of any other tasks that may require standing, a seat is called for."
2. "Whether the nature of the work reasonably permits sitting is a question to be determined objectively based on the totality of the circumstances. An employer's business judgment and the physical layout of the workplace are relevant but not dispositive factors. The inquiry focuses on the nature of the work, not an individual employee's characteristics."
3. Employers that argue that a suitable seat is not available have the burden of proving that a seat is not available.

---

#### Hera S. Arsen, Ph.D. (Torrance)



Hera S. Arsen, J.D., Ph.D., is Managing Editor of the firm's publications, overseeing the firm's print and online legal publications and content. Hera, who joined Ogletree Deakins in 2003, is directly responsible for writing and editing the firm's national legal content, including coverage of federal agencies and the Supreme Court of the United States. She also oversees the Ogletree Deakins



blog, which covers the latest legal news from over 20 practice-areas and jurisdictions. As leader of the...

---