

Wage & Hour

LAW UPDATE

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California Intermediate Appellate Court Reverses Ruling Finding “On Call” Rest Breaks Violated State Law

By Noel P. Tripp on January 9, 2015

Confronting a novel issue of state law in the wake of the California Supreme Court’s 2012 decision addressing California’s meal-and-rest break requirements, an appellate panel of the California Court of Appeal’s Second District ruled that a security firm did not violate rest break requirements where its security guards were “on call” during the required rest breaks. *Augustus v. Abm Sec. Servs.*, 2014 Cal. App. Unpub. LEXIS 9287 (Cal. App. 2d Dist. Dec. 31, 2014).

In *Augustus*, prominent security firm ABM “admitted it requires its security guards to keep their radios and pagers on during rest breaks, to remain vigilant, and to respond when needs arise.” Plaintiffs alleged that these obligations were “indistinguishable from normal security work” and rendered every rest break invalid. Analyzing California Labor Code Section 226.7 (“an employer shall not require an employee to work during a meal or rest or recovery period”), the appellate panel reversed the trial court’s finding that the rest breaks did not meet statutory requirements. The appeals court noted that while the guards remained on call they were free to and did in fact engage in various personal activities, and were in fact relieved of many duties that an active duty security guard was required to actively pursue. The Court juxtaposed the rest period requirement with the same Wage Order’s meal period requirement, which did require being relieved of all duty, and rejected plaintiffs’ argument that the meal break standard applied equally to rest breaks.

Compliance with California’s meal and rest period requirements remains paramount for California employers in all industries due to significant penalties for violations.