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# LEGAL ALERT

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## California Supreme Court Expands Reach Of State Overtime Laws

On June 30, 2011, the California Supreme Court ruled that work performed in California by nonresident employees for California-based employers is covered by the California Labor Code and its unfair competition laws. That means that employees residing in states outside California but working (even occasionally) in California may bring lawsuits against their California employers for unfair competition based on violations of California's generous overtime requirements. This is not good news for employers.

On the positive side, the Court also concluded that non-resident employees may not bring unfair competition claims in California based on violations of federal overtime laws when working outside California. *Sullivan v. Oracle Corporation*.

### Facts Of The Case

Oracle, whose headquarters is in California, hired "instructors" to teach customers how to use its products. Donald Sullivan, and two other instructors, were not residents of California, but performed some work here, as well as in other states. The employees filed suit in federal court alleging that they were entitled to restitution of unpaid overtime under California's unfair competition law (UCL) for work performed in California and other states.

The trial court granted Oracle's motion for summary judgment and the employees appealed. The U.S. Court of Appeals for the 9<sup>th</sup> Circuit initially reversed in part, but later withdrew its opinion and submitted these specific questions to the California Supreme Court:

- 1) Does the California Labor Code apply to overtime work performed in California for a California-based employer by out-of-state plaintiffs in this case?
- 2) Does the UCL apply to the claims in question one?
- 3) Does the UCL apply to work performed by the out-of-state plaintiffs in states other than California based on violations of the Fair Labor Standards Act (FLSA)?



### The Supreme Court's Ruling

The California Supreme Court has now answered the questions, and its decision was unanimous. The Court concluded that work performed in California by nonresident employees for "California-based employers" (not fully defined) is covered by the California Labor Code, and violations of the state's overtime laws can be brought as claims under the UCL (questions 1 and 2). But the court also ruled that overtime claims based on FLSA violations for work performed by nonresident employees *outside* California are not covered by California's UCL (question 3).

The Court made clear that its conclusions were based on the facts specific to this case, and thus do not apply where other California laws may be in question, such as "pay stubs, meal periods, compensability of travel time, the accrual and forfeiture of vacation time, and the timing of payment to employees who quit or are discharged."

The Court rejected the employees' reading of California law as traveling with California residents outside the boundaries of California in all cases. It sidestepped the question of whether businesses based outside of California could be liable for work performed occasionally by its

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non-California employees in California, although it noted that “the Legislature may not have intended” that situation to be regulated by California’s overtime laws. And the Court cautioned that it also was not prepared to hold that California’s wage orders necessarily applied to “*all*” employment in California, and *never* to employment outside California.”

### Where The Ruling Leaves Employers

The California Supreme Court’s ruling makes clear that employees who work in California for California-based employers, whether they are residents here or residents of other states, must be paid in accordance with the state’s overtime rules. But the ruling leaves unresolved many specific factual and legal questions not only for California-based employers, but

also for employers based outside of California who have non-resident employees performing work occasionally here. Furthermore, California regulates not only overtime, but many other areas affecting employees. Such issues should be addressed to your employment counsel.

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