

Wage & Hour Insights

Guidance & Solutions for Employers



Do California State Overtime Laws Apply to Visiting Workers?

By [Bill Pokorny](#) on July 05, 2011



Do you have employees who visit California for business? If so, now may be a good time to brush up on California wage and hour law. On June 30, 2011, the California Supreme Court ruled that the California Labor Code's overtime provisions applied to three non-resident employees of Oracle Corporation who performed work within the state. [Sullivan v. Oracle Corporation](#) (.pdf).

Summary of the Ruling

According to the decision, the three plaintiffs, Donald Sullivan, Deanna Evich and Richard Burkow, formerly worked for Oracle as Instructors and were responsible for training Oracle customers on the use of the company's software products. While Oracle is based in California, Sullivan and Evich reside in Colorado, while Burkow lives in Arizona. They worked mostly in their home states, but also traveled to California and multiple other states. During the time period at issue in the litigation (2001-2004), Sullivan worked 74 days in California, Evich worked 110 days, and Burkow worked 20 days.

After extensive discussion of the relevant statute and California's rules for reconciling conflicts among different states' laws, the California court held that the California Labor Code applies to "overtime work performed in California for a California-based employer by out-of-state plaintiffs in the circumstances of this case, such that overtime pay is required for work in excess of eight hours per day or in excess of forty hours per week." The Court further held that the state's unfair competition law applied to the plaintiffs' claims as to overtime work performed inside of California, but not to overtime work performed outside the state.

Insights for Employers

On its face, the court's ruling is limited to non-resident employees of California-based employers who perform work within the state. However, many of the arguments underlying the court's decision to apply California law to visiting employees would apply equally to employers "based" outside of California, particularly if those employers have a permanent presence within the state. Consequently, employers who regularly send workers to California on business should consider whether they may be subject to the state's overtime laws.

Copyright © Franczek Radelet P.C. All Rights Reserved. Disclaimer: Attorney Advertising. This is a publication of Franczek Radelet P.C. This publication is intended for general informational purposes only and should not be construed as legal advice.