



California Wage/Hour Update

Court Finds Meal And Rest Period Rules Preempted For Some Employers

By Ryan Wheeler

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California law mandates that employers provide employees who work more than five hours with a 30-minute meal break prior to the sixth hour of work, and a second 30-minute meal period for employees who work more than 10 hours. Employees are also entitled to a 10-minute rest period for every four hours, or major portion thereof, worked. A recent court ruling held that these regulations are preempted by a federal law which covers motor carriers. *Dilts v. Penske Logistics*.

The class of employees consisted of appliance delivery drivers and installers. Because Penske expected that its employees would take the meal periods to which they were entitled, it automatically deducted the meal periods from employees' wages. Penske asked the court to dismiss the employees' meal and rest period claims, asserting that California's meal and rest period laws are preempted by the Federal Aviation Administration Authorization Act of 1994 (FAAAA) as a matter of law.[1]

The Ruling

Judge Janis Sammartino first discussed whether or not the activities of the Penske employees fell within the scope of the FAAAA's regulated activity. Although the employees argued that driving and delivering were merely incidental job duties to their main function of installing goods, the court disagreed, reasoning that the scope of the FAAAA is broad. In order to be covered by the Act, an entity must be a motor carrier. A motor carrier is defined as a person providing commercial motor vehicle transportation for compensation. The term transportation includes "services related to that movement."

In this case, the employees, as drivers and installers, "operated commercial motor vehicles which transported property and conducted services related to that movement." Although the employees performed additional services, the court concluded that those additional services were not sufficient to exempt the employees from regulation under the FAAAA.

Next, the court considered whether California's meal and rest period laws fell within the preemptive scope of the FAAAA. The court noted that Congress enacted the FAAAA, in part, because

deregulation was needed in order to stop the inefficiencies, increased costs, reduction of competition, inhibition of innovation and technology, and lack of market expansion caused by varying and non-uniform state regulation. Thus, Congress intended the FAAAA to preempt state laws that had indirect effects on carrier prices, routes or services.

Applying the undisputed facts of the case to its analysis, the court concluded that "[w]hile the laws do not strictly bind Penske's drivers to one particular route, they have the same effect by depriving them of the ability to take any route that does not offer adequate locations for stopping, or by forcing them to take shorter or fewer routes. In essence, the laws bind motor carriers to a smaller set of possible routes."

California's meal and rest period laws also had a significant impact on the services Penske offered, because scheduling off-duty meal periods would preclude drivers from completing an additional one to two deliveries per day. Therefore, because California's meal and rest periods significantly impacted the routes or services of Penske's transportation, the court held that California's meal and rest periods were preempted by the FAAAA.

While this ruling does not affect all employers, it is highly significant for those in the transportation industry. Let us know if you'd like help in determining whether this ruling impacts employees in your operations.

For more information contact the author at rwheeler@laborlawyers.com or (949) 851-2424.

[1] The resolution of this issue is not impacted by substantive meal and rest period issues before the California Supreme Court in the *Brinker* litigation.