

Meal And Rest Break Claims Now Pose High Financial Risks to California Employers

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While perhaps overlooked in favor of other high-profile rulings (we're looking at you, *Viking River Cruises*), the California Supreme Court's decision in [Naranjo v. Spectrum Security Services, Inc.](#), No. S258966 (Cal. May. 23, 2022) may turn out to be one of the most significant cases of the year for California employers. [As we previously reported](#), *Naranjo* held that meal and rest period premiums may be characterized as "wages" under the California Labor Code, triggering derivative wage statement penalties under Labor Code section 226 and waiting time penalties under Labor Code section 203 if meal and rest period premiums go unpaid. The full consequences of that ruling are still unfolding, as evidenced by the Court of Appeal's recent decision in *Betancourt v. OS Restaurant Services, LLC*, 83 Cal. App. 5th 132 (2022). *Betancourt* holds that because meal and rest period premiums are now understood to be "wages," an employee who successfully sues for recovery of those premiums will now be entitled to attorneys' fees as well. In yet another distressing ruling for employers, *Betancourt* may increase risk and litigation costs for employers by allowing plaintiffs' lawyers to recoup potentially large fee awards, even where the recovery for the employee is small.

The plaintiff in *Betancourt* sued her former employer for a variety of claims, including (1) meal and rest break violations, (2) wage statement violations, (3) waiting time violations, (4) wrongful termination, and (5) retaliation. After discovery, the parties agreed to dismiss the wrongful termination and retaliation claims, and settled the remaining wage and hour claims for a (relatively) modest sum of approximately \$15,000. But the plaintiff wasn't done. She then filed a motion pursuant to California Labor Code section 218.5(a) seeking attorneys' fees and costs of more than \$580,000. (Section 218.5(a) allows plaintiffs who prevail on their wage claims to recover their attorneys' fees.) Reducing that amount, the trial court awarded plaintiff nearly \$290,000 in fees and costs – roughly 18 times what the plaintiff had actually settled her wage claims for. The employer appealed, contending that the award of attorneys' fees should be reversed.

After *Naranjo*, the legal issue for the Second District Court of Appeal to decide was, according to the Court, relatively straightforward: does Section 218.5(a) permit an employee to recover attorneys' fees if she obtains a favorable result on a claim for meal and rest break premiums, or on derivative claims for waiting time or wage statement penalties? The court said yes, based on what it called the "clear" holding of *Naranjo* that "extra pay for missed breaks constitutes wages." In light of that

holding, the attorneys' fee award under Section 218.5(a) was essentially automatic for the prevailing plaintiff.

Plaintiffs often have everything to gain and little to lose when it comes to seeking attorneys' fees under Section 218.5 (a). While plaintiffs are entitled to fees every time they win, employers can recover fees "only if the court finds that the employee brought the court action in bad faith." And as *Betancourt* itself demonstrates, there is no proportionality requirement for fees: even a single unpaid meal or rest break premium places an employer on the hook for a potentially gigantic fee award. After *Naranjo* and *Betancourt*, meal and rest break claims pose high financial risks to California employers.

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