

Five Tips for Complying with California's Rest Break Requirements in *Augustus v. ABM Security Services, Inc.*

Article By:

Emily Knoles

The California Supreme Court Clarifies the Rest Break Requirements

On December 22, 2016, the California Supreme Court issued its decision in *Augustus v. ABM Security Services, Inc.* and held that, during required rest breaks, “employers must relieve their employees of all duties and relinquish any control over how employees spend their break time.” The Court interpreted the California Labor Code and IWC Wage Orders and its decision in *Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal.4th 1004 — which addressed meal break requirements — and determined that meal breaks and rest breaks should receive parallel treatment by employers.

ABM required security guards, while on break, to keep radios and pagers on and to respond to tenant calls while on break. In a split opinion, the majority of the Court held that even though state law and regulations don’t mention this sort of on-call time, “one cannot square the practice of compelling employees to remain at the ready, tethered by time and policy to particular locations or communications devices, with the requirement to relieve employees of all work duties and employer control during 10-minute rest periods.” Specifically regarding rest breaks, the Court determined:

1. On-call rest breaks do not meet the requirements of Labor Code §226.7 or the IWC Wage Orders.
2. An employer must ensure rest breaks are provided and no work is required during that time, in the same way that meal breaks are required under *Brinker*.

How can your business comply with *Augustus*?

Your business may be unintentionally subject to liability for these rest break claims. Below are five tips employers should consider to avoid running afoul of the *Augustus* decision:

1. Check your handbooks and policies and review your rest break provisions;
2. Relieve employees of **all** duties during their rest breaks;
3. Have employees clock out during their rest breaks;
4. Train managers and supervisors to not disturb employees taking their rest breaks; and
5. Discontinue the use of on-call duties during rest breaks.

By aligning rest break requirements with meal break requirements, the California Supreme Court is sending a message that businesses should manage their rest breaks in the same way they manage meal breaks. Given this signal, we expect there to be an uptick in California litigation on the provision of off-the-clock rest breaks.

© Polsinelli PC, Polsinelli LLP in California

National Law Review, Volume VI, Number 365

Source URL: <https://natlawreview.com/article/five-tips-complying-california-s-rest-break-requirements-augustus-v-abm-security>