



the california supreme court offers guidance to employers for meeting their seating obligations

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Most employers rarely think about their obligation to provide seats for their employees. The California Supreme Court's recent decision in *Kilby v. CVS Pharmacy* should have employers standing up and taking notice.

Addressing how to evaluate whether "the nature of the work reasonably permits the use of seats," the *Kirby* Court clarified that this is an "objective" standard based on the "totality of the circumstances" and the employee's actual tasks performed at a given location in the workplace. While this opinion is likely to raise more questions than it answers, the Court offered some factors to be considered in the analysis, discussed in greater detail below. Likely most informative to employers, however, is the Court's warning that "[t]here is no principled reason for denying an employee a seat when he spends a substantial part of his workday at a single location performing tasks that could reasonably be done while seated, merely because his job duties include other tasks that must be done standing."

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