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## where's the rest of my pay?

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### *MSK Client Alert*

April 18, 2017

In *Vaquero v. Stoneledge Furniture LLC*, a California Court of Appeal recently held that inside sales employees who are paid on a 100% commission basis must be separately compensated for their rest periods.

Though inside sales persons are exempt from overtime (provided they earn at least 1.5-times minimum wage and earn more than half of their compensation from commissions), they are not exempt from California's meal and rest period requirements. Thus, the Court's logic was as follows: Inside sales employees must receive at least one paid rest period of 10 minutes for every four hours worked. If 100% of an employee's pay is attributable to commissions, then he or she is not being compensated for rest periods—i.e., an employee cannot earn a commission while "resting," so an employee paid only commissions must not be receiving pay for rest periods.

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### **attorneys**

Brian M. Ragen

### **practice areas**

employment litigation & counseling

labor & employment

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