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# california court of appeal upholds clearly defined waiting period before vacation begins to accrue

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*MSK Client Alert*

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Building on earlier vacation policy decisions, a California Court of Appeal recently held in *Minnick v. Automotive Creations, Inc.* that employers may impose a clearly expressed waiting period before an employee can begin to accrue vacation time. This means that employers do not have to provide vacation pay vesting on day one of employment. While an employer cannot contract around the rule against forfeiture of wages, an employer does not do so by unambiguously providing that employees do not begin to earn vacation pay until a certain period of employment has occurred. However, once vacation pay under an employer's policy starts to be vested and earned, it cannot be taken away.

In the *Minnick* case, the employer's policy clearly expressed that no vacation time was earned during an employee's first year of employment. The plaintiff was a former employee who had only been employed for six months. He accordingly was not paid any unused vacation in his final paycheck because he had not worked a full year. His lawyer argued that the employer's policy violated California law because it required employees who worked less than one year to forfeit vested vacation pay.

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## **attorneys**

Steven M. Schneider

## **practice areas**

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