



california court of appeal provides new guidance on meaning of "to employ" workers

MSK Client Alert

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Recently, in *Curry v. Equilon Enterprises LLC*, the California Court of Appeal ruled that a wage and hour class action against Shell Oil could not proceed because the service station manager bringing the suit was not a Shell employee. Rather, the manager was employed by ARS, the company that contracted with Shell to operate the station.

Similar to a franchisor-franchisee relationship, ARS had a contract with Shell to operate multiple gas stations. The plaintiff managed two locations. She was hired by ARS, trained by ARS employees, reported to ARS employees, and supervised ARS employees. ARS paid plaintiff and made all disciplinary and promotional decisions regarding her employment. Plaintiff brought a class-action suit against ARS and Shell, claiming she and other managers were misclassified as exempt employees, denied overtime pay and denied meal and rest breaks. The plaintiff also claimed that ARS and Shell were joint employers.

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