



california supreme court holds that rest and meal period premiums must be calculated in the same manner as overtime payments

Jeremy Mittman & Corey Singer

MSK Client Alert

July 19, 2021

On July 15, 2021, the California Supreme Court settled a longstanding question in *Ferra v. Loews Hollywood Hotel, LLC*, 2021 WL 2965438, about how an employer must calculate the extra hour of premium pay that California non-exempt employees are owed if a compliant meal or rest break is not provided.

In a significant reversal of prior court rulings, the Court determined that meal and rest period premium payments are based on an employee's "regular rate of pay," meaning that such premiums must include the value of all nondiscretionary payments (such as nondiscretionary bonuses and sales incentive payments), and are not paid at an employee's base hourly rate. In other words, the *Ferra* ruling concludes that the method for calculating meal and rest period premium payments is the same as calculating overtime payments pursuant to California law.

[View Full Alert](#)

attorneys

Jeremy Mittman

practice areas

labor & employment