



Meal-Break Class Actions Continue in Post-Brinker Era

News

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John Skousen was quoted in the *SHRM* article “Meal-Break Class Actions Continue in Post-Brinker Era” on November 18, 2014. John was quoted on what employers should do to avoid class actions for alleged meal-and-rest-break violations.

We’re going to keep getting them,” said John.

Even before *Brinker*, many companies already were taking a “very conservative, cautious approach” to record-keeping, according to John. Though some employers have since tightened up their procedures, many haven’t needed to, as they were already carefully recording this information, he said.

Special challenges can arise when employees—like plumbers or truck drivers—work out in the field, John said. He noted that the trucking industry continues to face many lawsuits alleging that workers were deprived of breaks.

To deal with these challenges, employers should be very careful about staffing, and they should be familiar with record-keeping systems that are useful for remote workers, John added. For example, offsite workers can track their hours and breaks on their smartphones, and some companies use manual logs that are turned in at the end of the pay period.

John also urged caution in another area: the taking of early meal periods. The *Brinker* decision permits early meal breaks, which is particularly important in the hospitality industry, he said. But this can be a confusing area. One source of confusion could be coordinating early-meal periods with rest breaks.

“And typically you never combine them, although sometimes employers make the mistake and give in to employee requests for coming up with a formal schedule combining an early meal period with a rest period,” John said.

He advised employers to consult legal counsel if they plan to offer early meal breaks.

If an employee wants to waive a meal period altogether, it’s best to get that in writing, even though it’s not required, John added.

He noted that this is sometimes confused with an “on-duty meal period agreement,” which technically is not a waiver but constitutes one of two methods of providing meal periods. The on-duty meal period agreement must be in writing, must be paid and must contain language that the employee can revoke it at any time, according to John. Also, the nature of the job must prevent the worker from being relieved of all duty.

To read the full article, please visit [SHRM](#).

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