

Joan Fife Discusses *Brinker* Meal and Rest Breaks Case

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Winston & Strawn partner [Joan Fife](#) was quoted in the *Daily Journal* article, “*Brinker* Case Closer to Trial, Nine Years After Filing,” published September 27, 2013.

The case against Brinker Restaurant Corp. that led to a landmark state Supreme Court decision in 2012 regarding meal and rest breaks has moved closer to trial with a judge’s decision on September 26, 2013 to grant class certification to hourly employees seeking damages for missed breaks.

The Supreme Court unanimously decided last year that employers must only make breaks available, not ensure that employees take them. As Brinker likely had break policies compliant with state law, Ms. Fife said she found this recent decision out of line with the high court’s ruling.

“The state court completely ignored the federal law cases of *Wal-Mart* and *Comcast*,” Ms. Fife said, noting that appellate courts are unlikely to follow such an analysis. She added that the ruling shouldn’t have special weight solely because the case applies *Brinker* to the foundational trial court case.

“I don’t think, just because it’s *Brinker* on remand, that gives it any higher status,” she said.

Ms. Fife said the ruling was an example of why defense counsel should try to have employment cases removed from state court. “The employer would have many more arguments in federal court,” she said.

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