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NEWS At-A-Glance

California Supreme Court Rules: Employers are Not Meal Period Police – Part 1 of 2

On April 12, 2012 the California Supreme Court issued a decision three years in the making on the *Brinker Restaurant Corporation vs. Superior Court of San Diego* class action case clarifying employer obligations when it comes to employee meal breaks. Essentially the ruling states that employers must “provide” the required meal break but need not “ensure” that employees perform no work during that break. A meal break must be provided after no more than five hours of work and a second meal period must be provided after no more than the tenth hour of work. An employer satisfies this obligation when “...it relieves its employees of all duty, relinquishes control over their activities and permits them a reasonable opportunity to take an uninterrupted 30-minute break, and does not impede or discourage them from doing so.” So, while employers get some relief from policing these breaks they are not off-the-hook entirely. If employees want to work through their breaks, they may do so...and employers still have an obligation to pay employees should this happen. The *Brinker* decision also weighed in on the issues of employee rest breaks (different than meal breaks) and off-the-clock work. While *Brinker* applies to most employers, certain industries and those subject to collective bargaining agreements may be exempt. For more information, visit the link at the end of this article. Part 2 of our report on the *Brinker* decision will include recommendations for employers about how to meet required meal and rest period responsibilities.

<http://www.cookbrown.com/updatedetail.asp?id=476&parentid=82>

New Masonry ASTM Standards Enacted for C90 and C140

Significant changes to ASTM's C90 and C140 are currently in effect. New C90 web thickness requirements now have a single minimum web thickness regardless of unit width and a “normalized web area.” These changes to the ASTM C90 replace prior specifications for different minimum web thicknesses based on unit width and “equivalent web thickness” measurements. Also, ASTM C140 now outlines the proper way to measure ASTM C90 Concrete Masonry Units to determine “normalized web area.” Kurt Siggard, executive director of the Concrete Masonry Association of California and Nevada (CMACN), was instrumental in bringing these changes about and you may read more about the details of the new ASTM standards in the May 2012 edition of [CMACN Monthly](#) attached.

Workers Comp Rates to Increase by 45% for July 1, 2012 Policies

If you have a new or renewing Workers Compensation policy effective July 1, 2012, you will feel the cumulative impact of an 8.3% mid-year rate increase and a 37% January 1 increase resulting in a 45.3% average base rate increase from the same time last year. Despite opposition from the business and labor community, Insurance Commissioner Dave Jones approved the rate increase citing medical costs as the primary reason for the increase. The commissioner's office has attempted to soften the blow of the significant increases by expressing the rates in terms of ‘averages to \$100 of payroll’ benchmarking against currently charged rates rather than previous pure premium rates, but manipulating the phraseology does not change the facts. Pure premium rates are advisory only and insurers are free to file their own rates and may accept or ignore the commissioner's recommendation. See the *Workers Comp Executive* report at <http://www.wcexec.com/Jones-Approves-45-Workers-Comp-Hike-for-71s.aspx>.



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MCAC Scaffold Committee Reviews First Round Draft Documents

Since our last report in the February edition of *News-at-a-Glance*, the Scaffold Committee has continued to make progress on the best practice guidance documents addressing scaffold tie-off, leading edge, and material storage. An industry consultant has been retained, a budget approved, and the first round of draft documents reviewed. In May, the committee submitted its feedback to the consultant on the first round draft documents. The second round of draft documents is now under development. Funding for this project is being donated by the Sacramento, San Diego, and South Bay chapters of the MCAC. We appreciate their support!

Note: The MCAC Scaffold Committee was formed to develop best practices documents that MCAC members can use during bid negotiations (and other situations as necessary) to educate their customers and jobsite safety inspectors on safe, acceptable, and feasible industry standards in each of the three aforementioned issue areas.

Have You Renewed Your 2012/13 Membership Yet?

July 1 is rapidly approaching. Invoices have been mailed. **Contractor membership term is July 1, 2012 - July 1, 2013.** Keep your membership current and Stay-Connected to the masonry industry. If you are reading this asking yourself, "Why should I renew my MCAC membership?", please keep a few points in mind: 1) Yours is a 2-for-1 membership in both the state (MCAC) and national (MCAA) masonry associations; 2) These two organizations represent the unique interests of mason contractors; 3) The final scaffold best practices documents currently under development will be available exclusively to MCAC members (we don't want you to miss out!); and 4) Your membership supports and strengthens the activities and organizations that represent your industry...and *collectively we can accomplish that which we could not individually.* If you have any questions or comments on how MCAC can make your membership more valuable, I look forward to the opportunity to speak with you. Call or email me at (916) 966-7666 or julie@ccmca.org.

Federal Labor Posting On Hold... Indefinitely

Update! The National Labor Relations Board (NLRB) poster requirement has been suspended until further notice as a result of federal court challenges. We have been reporting on a new NLRB requirement for private sector employers to post a notice informing employees of their rights under the National Labor Relations Act. The posting was originally effective November 14, 2011 then was postponed to January 31, 2012 and postponed again to April 30, 2012. The posting requirement has now been placed on indefinite hold due to an injunction issued by the U.S. Appeals Court blocking implementation of the requirement. The poster requirement has been challenged by business groups since its introduction. Now the courts will work to determine whether the requirement and its corresponding failure- to-post penalties are within NLRB authority. The issue is being appealed and oral arguments are expected September 2012. So, employers have, at least, a temporary reprieve from the NLRB poster requirement. For details, please visit <http://www.nlrb.gov/poster>.



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Save the Dates! MCAC Upcoming Events

Planning is underway for MCAC State Meetings and events in 2012 and 2013. The following dates are TENTATIVE and are subject to change. Official *Save the Date* notices will be distributed once details are finalized for each function.

October 12-13, 2012	MCAC 149 th State Meeting and Golf Tournament	Carlsbad, CA
February 5-8, 2013	MCAC 150 th State Meeting (in conjunction with WOC/WOM)	Las Vegas, NV
April 25-28, 2013	MCAC 151 st State Meeting and 50 th Anniversary Celebration	Hawaii (island TBD)
September 19-20, 2013	MCAC 152 nd State Meeting (in conjunction with CMACN Masonry Design Awards Dinner)	Newport Beach, CA

Heat Illness Reminder

With summer imminent, it's a good time to make sure we are all being diligent about heat illness exposure and complying with Cal/OSHA's prevention measures.

Water - Provide enough water for each employee to drink 1 quart per hour and encourage them to do so.

Shade - Above 85 degrees, employer shall:

- Keep shade up and available at all times;
- Have enough shade available to cover 25% of employees on the shift at any one time;

Training - Employees and supervisors shall be trained on critical heat illness information such as risk factors, preventative measures, and symptoms.

Written Procedures - Maintain a written plan to comply with the Cal/OSHA Heat Illness Standard.

High Heat - At 95 degrees, employers in 5 industries (including construction and those transporting or delivering construction/heavy materials) shall implement high-heat procedures to include:

- 1) effective communication to allow workers at job site to contact a supervisor when necessary (cell phones and text messaging may be used only if reception in the area is reliable);
- 2) observing employees for alertness and signs/symptoms of heat illness;
- 3) reminding employees to drink water throughout their shift; and
- 4) close supervision of new hires for their first 14 days of employment.

Cal/OSHA is holding heat illness prevention classes throughout the state May-September. To see the complete class schedule and heat illness regulation, visit Cal/OSHA's Heat Illness Center at <http://www.dir.ca.gov/DOSH/HeatIllnessInfo.html>.

MCAC Safety Contact and Online Resource

MCAC strives to inform its members on the importance of safety in the workplace and help members obtain tools that can be used to provide a safe work environment for employees. We do this by providing articles, access for State Fund Group 58 participants to a comprehensive safety library, seminars at member meetings, and other resources such as the Cal/OSHA pocket guide. If you would like safety information, MCAC wants to help.

Safety Contact - Julie Trost: (916) 966-7666

Online Safety Resource - Julie Trost: julie@ccmca.org