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NEWS At-A-Glance

The Brinker Decision: 5 Tips for Employers to Comply – Part 2 of 2

Last month we brought news of the Supreme Court's April 2012 *Brinker* decision (*Brinker Restaurant Corporation vs. Superior Court of San Diego*) clarifying employer obligations when it comes to employee meal and rest breaks. The essence of the ruling confirmed that employers must "provide" required breaks but need not "ensure" that employees take the breaks. *Brinker* also clarified some key elements of rest break requirements – in particular the meaning of "major fraction thereof" when it comes to determining how much time employees are entitled to during their rest breaks. **What We Knew:** Rest breaks must fall in the middle of a work period "insofar as practicable" (WO16: construction employers may stagger rest breaks to avoid work flow interruption) and shall be based on the daily total hours worked at the rate of ten (10) minutes rest time for every four (4) hours worked, or *major fraction thereof*. **What We Learned:** "Major fraction thereof" is defined for each four (4) hour period and means any amount of time in excess of two (2) hours. The equation looks like this... Total Work Hours ÷ 4 × 10 minutes. So, for an 8-hour work day... 8 hours ÷ 4 = 2 x 10 minutes = 20 minutes.

10 minutes rest for	3.5 – 6 hour shift (no break required for shifts less than 3.5 hours)
20 minutes rest for	6 – 10 hour shift
30 minutes rest for	10 – 14 hour shift

It is important to note that *Brinker* did not create any new laws: It simply clarified existing ones. Bearing that mind, labor law specialists, Cook Brown, offer the following suggestions for complying with the newly-clarified meal and rest period requirements:

1. Review meal and rest period policies to ensure legal compliance.
2. Record in/out times at start and end of day. If your foremen complete the forms, have employees sign.
3. Record in/out times for meal periods. Again, if foremen complete the forms, have employees sign.
4. Have employees certify taking of breaks and provide them with a means to explain why breaks were not taken. Include language on time sheets regarding your break policy and include space for lack-of-break explanations.
5. Implement policy banning off-the-clock work.

More suggestions: Train foremen that breaks are uninterrupted and duty-free. Encourage crews to take breaks as a group. And, don't have superintendents calling foremen during scheduled breaks. For more details on the *Brinker* ruling visit the Cook Brown website.

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

We Have New Web and Email Addresses

As we continue to roll out our new identity as the MCAC, we want to keep you apprised of developments. The latest? Our website and email addresses have been updated to reflect our new name. **Please update your records to reflect our new information**, shown below:

Website Address – www.mca-ca.org / Email Address – julie@mca-ca.org
 If you inadvertently type in our old web address (www.ccmca.org) or send a message to the former email address (julie@ccmca.org), you will be automatically redirected to the new addresses. However, this automatic redirect is a temporary aid to navigate us through this time of transition. Updating your files will help ensure that association correspondence coming from the new email address is not blocked as spam. Thank you!



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Mechanics Lien Forms Are New Effective July 1, 2012

Mechanics lien and stop notice statutes (collectively "Mechanics Lien Law") underwent an overhaul in 2010 when SB 189 was signed into law. While the legislation reorganized, clarified, and simplified the legal rules, it also made substantive changes including new definitions and new procedures which make some of the most important forms contractors, subcontractors, and suppliers have been using for decades to protect their payment rights obsolete and requires the use of new forms. As a result, all those in the construction industry should make sure they are using the new forms and procedures effective July 1, 2012. **Failure to use the new forms could result in the loss of important legal rights.** As of July 1, 2012, the following forms must be discarded and new forms used:

- Preliminary 20 Day Notice (both public and private) – newly named "Preliminary Notice"
- The four waiver and release forms (conditional, unconditional, progress payment, and final payment)
- Mechanics Lien
- Release of Mechanics Lien
- Stop Notice – newly named "Stop Payment Notice"
- Release of Stop Notice
- Notice of Completion
- Payment Bond Notice
- Extension of Time to Enforce Mechanics Lien

All of the above forms are available at no charge on the **Porter Law Group** website at <http://www.porterlaw.com/forms.htm>. Other forms also changed as a result of SB 189 but the above forms include the most significant changes. For a complete list of the new forms and detailed information on Mechanics Lien Law changes, visit the Porter Law Group website at http://www.porterlaw.com/articles/article_construction_forms.htm or the **Abdulaziz Grossbart & Rudman** website at <http://www.agrlaw.com/new-mechanics-lien-law>. *Both of these law firms participated in the committee of seven California construction attorneys selected to work with the California Legislature and California Law Revision Commission in drafting 2010 SB 189, a 244-page bill rewriting construction claims remedies.*

Industry Events 2012

- **July 15-18, 2012** SAIA Annual Convention and Exposition – Huntington Beach, CA. For more information <http://convention.saiaonline.org>
 - **August 17, 2012** – MITA Golf Tournament, Chardonnay Golf Club – American Canyon, CA. [Click here](#) for flyer or www.mca-ca.org.
 - **September 12, 2012** – RCP "Changes to Chapter 21 of the 2013 CBC Building Code & Updated Masonry ASTM Standards", RCP Murrieta Plant - Murrieta, CA. [Click here](#) for flyer or www.mca-ca.org.
 - **September 22, 2012** – Northern California Fastest Trowel, Basalite - Dixon, CA
 - **October 6, 2012** – Southern California Fastest Trowel, ORCO Block - Riverside, CA
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News At-A-Glance

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Save the Dates! MCAC Upcoming Events

Plans are firming up for MCAC State Meetings and events in 2012 and 2013. All but the October 2012 dates are still TENTATIVE and subject to change but we will continue to update you with information becomes available (new info in blue text). Official *Save the Date* notices will be distributed once details are confirmed for each function.

October 12-13, 2012 Confirmed!	MCAC 149 th State Meeting, Product Showcase, and Golf Tournament	Sheraton Carlsbad Resort - Carlsbad, CA
	<ul style="list-style-type: none"> • Save the Date notice attached. • Registration packets will be going out soon. 	
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	Grand Hyatt Kauai Resort - Koloa, HI
September 19-20, 2013	MCAC 152 nd State Meeting (in conjunction with CMACN Masonry Design Awards Dinner)	The Island Hotel - Newport Beach, CA

MCAC Scaffold Committee Submits Feedback on Second Round of Documents

Since our last report in the June edition of *News-at-a-Glance*, the Scaffold Committee has continued its work to develop best practice guidance documents addressing scaffold tie-off, leading edge, and material storage. With the first round of draft documents reviewed and revised in May, the second round of draft documents underwent scrutiny in June. The committee feedback is expected to result in round three of the documents this month. Focus to date has centered on where the foot plank is in relation to the last course of material laid, ensuring that "Qualified Person" and "Competent Person" are duly recognized authorities to make judgment calls on the job site, and clarifying scaffold frame heights and anchorage requirements. Stay tuned for updates on the committee's progress.

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 three key areas of scaffold protocols: 1) tie-off, 2) leading edge, and 3) material storage. Funding for this project is being donated by the Sacramento, San Diego, and South Bay chapters of the MCAC. We appreciate their support!

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@mca-ca.org