


SEPTEMBER 23, 2022 | WAGE & HOUR COMPLIANCE

California Confirms Meal and Rest Period Claims are a Hook for Attorney's Fees Awards

By [Samuel Rose](#) and [Megan Shaked](#)

A few months ago, we wrote a [blog article](#) on the California Supreme Court's decision in *Naranjo v. Spectrum Security Services, Inc.*, which held that premium pay for meal and rest break violations is considered "wages," paving the way to award waiting time and wage statement penalties based on meal/rest period violations alone. We noted that the practical impact of the *Naranjo* decision could be to encourage class action and PAGA (Labor Code Private Attorneys General Act) litigation within California by providing further remedies in meal and rest period litigation and inflating the settlement value of these cases. 

Now, we are starting to see the real impacts of the *Naranjo* decision. The California Court of Appeal has issued its decision in *Betancourt v. OS Restaurant Services, LLC* after remand from the Supreme Court with instructions to reconsider its initial opinion in light of *Naranjo*. Originally, the Court of Appeal decided in *Betancourt* that, based on *Kirby v. Inmoos Fire Protection, Inc.* (2012) 53 Cal.4th 1244, an action brought for failure to provide meal and rest breaks is not based on nonpayment of wages. That meant that the Plaintiff could not recover for waiting time penalties and wage statement violations, and that the Plaintiff could not recover attorney fees under Labor Code section 218.5(a).

In applying *Naranjo*, the Court of Appeal in *Betancourt* had to reverse course, confirming that the Plaintiff could indeed recover for waiting time penalties and wage statement violations based on meal and rest period violations alone. In addition, because *Naranjo* paved the way for meal and rest period penalties to be considered wages, the Court in *Betancourt* could affirm the Plaintiff's award of over \$280,000 in attorney's fees based on California Labor Code Section 218.5(a). That section provides, in part, that in any action brought for the nonpayment of wages, the court shall award reasonable attorney's fees and costs to the prevailing party.

The case confirms one of the practical implications of *Naranjo* – that the availability of attorney's fees for claims of waiting time penalties and wage statement violations stemming from meal and rest period violations will certainly raise the stakes in California wage and hour cases.

What Does This Mean for Employers?

It seems to be a pattern. Each time the California courts speak on these wage and hour issues, it results in greater exposure for employers. Now, more than ever, it's important that employers evaluate their meal and rest

break policies and practices to ensure compliance with California law.

Conn Maciel Carey LLP

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