



## **CALIFORNIA SUPREME COURT RULES THAT EMPLOYER MUST COMPLY WITH CALIFORNIA OVERTIME LAW AS TO NON-RESIDENTS WORKING IN STATE**

In Sullivan v. Oracle Corp., the California Supreme Court recently ruled that Oracle was required to pay overtime in accordance with California law to non-California residents who work in California for a full day or full week. The case involved employees based outside of California who traveled to train customers of Oracle in California. Unlike most states, California requires employers to pay daily overtime at one and one-half the regular rate for hours in excess of eight in one day, and double time for hours in excess of twelve in one day. Also, on a seventh consecutive day of work in a workweek, California requires payment at one and one-half times the regular rate for the first eight hours of work, and double time for hours in excess of eight.

The court rejected Oracle's argument that overtime liability should be determined based upon the law of the state where the employee is based. The court reasoned that if a California employer can avoid California Labor Code requirements simply by using nonresident workers, California residents will be disadvantaged in the labor market by the cheaper labor of nonresidents. This decision confirmed an earlier ruling by the federal Ninth Circuit Court of Appeals that was later withdrawn, pending this ruling from the California Supreme Court.

Based upon this ruling, California employers should identify any and all of their non-exempt employees based outside of California who may travel to California to perform any work. Employers should review their pay policies and practices with counsel to confirm that employees are paid properly for such work. Employers should also educate the managers of such employees regarding the wage and hour implications of non-exempt, non-California-based employees traveling to work in California.



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