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## Update: *Brinker* Oral Arguments Set, and NLRB Delays Poster Rule

The past week has brought two notable developments for employers: word that there will soon be a resolution of the long-running controversy in California regarding meal break requirements, and a delay in the effective date of a National Labor Relations Board (NLRB) employee notice rule.

First, the California Supreme Court has set a date for oral argument in *Brinker v. Superior Court (Hohnbaum)*, a case that should offer California employers much-needed guidance regarding what it means to “provide” meal breaks to employees -- do employers have to simply make meal breaks available, or must they affirmatively ensure that employees take their meal breaks? Oral arguments are scheduled for November 8, 2011, and the Court is expected to issue a decision by early 2012 (within 90 days after oral argument).

Second, the NLRB has announced that it is postponing the effective date of its recent rule requiring employers -- both union and non-union -- to post a notice of employee rights under the National Labor Relations Act. The posting rule was slated to take effect on November 14, 2011, but has now been pushed back to January 31, 2012. The NLRB took action to delay the rule after a federal judge who is presiding over two lawsuits challenging the agency’s authority to require the posting asked the NLRB to postpone the rule to give her time to fully consider arguments in the litigation. (For more information about the posting requirement, see our prior [Alert](#).)

We will keep you up to date on *Brinker* and the status of the NLRB’s posting requirement.

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