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California Supreme Court Clarifies Day-of-Rest Statutes

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The California Supreme Court recently clarified a question plaguing many California employers. Last month, the U.S. Court of Appeals for the Ninth Circuit asked the Supreme Court of California to address several unresolved questions concerning the construction of California's day-of-rest statutes. California Labor Code Sections 550–558.1 prohibit an employer from "caus[ing] his employees to work more than six days in seven" (§ 552), but do not apply "when the total hours of employment do not exceed 30 hours in any week or six hours in any one day thereof" (§ 556). Two related provisions of the Labor Code ensure day of rest protection for employees. First, "[e]very person employed in any occupation of labor is entitled to one day's rest therefrom in seven" (§ 551). Second, "[n]o employer of labor shall cause his employees to work more than six days in seven" (§ 552). In the opinion, the Supreme Court first addressed the question of whether the day of rest required by Labor Code Sections 551 and 552 is calculated by the workweek, or whether it applies on a rolling basis to any seven consecutive days worked. In analyzing these statutes, the court found that Sections 551 and 552 guarantee employees at least one day of rest during each week, as opposed to one day in every seven on a rolling basis. It also found that "[p]eriods of more than six consecutive days of work that stretch across more than one workweek are not per se prohibited." The Supreme Court also addressed the question of whether the California Labor Code Section 556 exemption for workers employed six hours or less per day applied as long as an employee worked six hours or less on at least one day of the applicable week, or whether it applied only when an employee worked no more than six hours every day of the week. Labor Code Section 556 states: "Sections 551 and 552 shall not apply to any employer or employee when the total hours of employment do not exceed 30 hours in any week or six hours in any one day thereof." The court held that the removal of seventh-day-rest protection applies only to those employees who work no more than six hours a day each and every day of the workweek. The court also found that the exemption under Section 556 only applies to employees who never exceed six hours of work on any day of the workweek. However, "[i]f on any one day an employee works more than six hours, a day of rest must be provided during that workweek, subject to whatever other exceptions might apply." Finally, the Supreme Court addressed the meaning behind Labor Code Section 552, which states that an employer may not "cause his employees to work more than six days in seven." Specifically, the court looked at the meaning behind the word "cause" – namely, what does it mean for an employer to "cause" an employee to go without a day of rest? The court analyzed whether the term "cause" meant to force, coerce, pressure, schedule, encourage, reward, permit or something else in the present context. Ultimately, the court determined that the employer has an obligation to apprise its employee of his or her entitlement to a day of rest, and to then maintain total impartiality as to whether the employee decides to exercise his or her right to take that day of rest. With that in mind, the employer is ultimately not prohibited from allowing an employee from independently choosing not to take his or her rest day. The Supreme Court held that

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California’s law requiring one day of rest in seven looks only at the employer’s defined workweek when determining the applicable period of time to be analyzed for compliance and liability purposes, and does not specifically require employers to provide one day of rest after six preceding calendar days of work. As a result, the day of rest must be given in a workweek, not on a rolling basis for any consecutive seven-day period. Thus, a key takeaway for employers is to make sure to designate their employees’ workweek. If for example, an employer’s workweek runs from Sunday to Saturday, it’s not a problem for an employee to be scheduled to work every day from Thursday to Thursday—even though that’s more than seven consecutive days of work. As a result of this case, employers can finally have some clarification regarding California’s day of rest statues and are provided some guidance when deciding how best to schedule their employees.