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September 16, 2008

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VIA CERTIFIED U.S. MAIL

Supreme Court of California
350 McAllister Street
San Francisco, California 94102-4783

RECEIVED

SEP 19 2008

Schubert Jonckheer Kolbe &
Kralowec LLP

Subject: Amicus Curiae Letter in support of Petition for Review of Brinker v. Superior Court (2008) 165 Cal.App.4th 25.

To The Honorable Ronald George, Chief Justice of The Supreme Court and Associate Justices:

This Amicus Curiae letter is in support of a Petition for Review filed by Petitioner Adam Hohnbaum, et al. urging the Court to review or de-publish the decision of the Court in Brinker v. Superior Court. The Brinker decision has already had a profound effect on a class action cases we are currently litigating and will continue to have a profound effect on employees in California by allowing this decision to remain. The decision does not rest on ground legal principals and completely disregards this courts long standing policy with respect to class actions.

Our firm primarily represents plaintiffs in employment class actions. As such, we represent a plaintiff, Kevin Tien against his former employer, Tenet Healthcare, in a case entitled Tien v. Tenet Healthcare, Corp., Los Angeles Superior Court Case No. BC335055. Recently, Los Angeles Superior Court Judge Carl West, a well respected jurist, conditionally certified a meal period class on June 3, 2008.

Immediately after Brinker decision came down, the Judge on his own motion, set a status conference to determine if the court should reconsider his order. This case deals with approximately 83,000 employees.

Similarly, in a San Diego case wherein our office represents plaintiff, Michael Grassi in Grassi v. Party City, San Diego Case No. GIC 874341, Superior Court Judge Steven Denton, also, a well respected jurist, granted class certification of meal and rest period class on August 8, 2008, relying entirely on Cicarios v. Summit Logistics, Inc. (2005) 133 Cal.App. 4th 949. Upon the Brinker decision's publication, the San Diego court also, set a status conference and is not entering the current certification order until the Brinker decision is final, either depublished, or taken up for review or left untouched. The San Diego Court

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has requested further briefing on certification to address Brinker. This case affects over 414 employees.

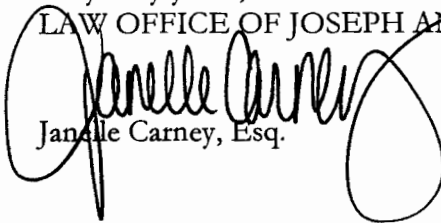
The detrimental effect of Brinker on hundreds of thousands of employees in California cannot be overstated. Brinker contradicts this Court's longstanding view on class actions, the public policy of the State of California, and ignores the legislative intent with respect to Labor Code §§ 226.7 and 512.

Clearly, Brinker must be reviewed before the class action mechanism is obliterated for employees making claims for meals and rest breaks they are rightfully entitled to. For these reasons we ask the Court to review the decision of Brinker v. Superior Court and grant petitioner's request for Review.

I sincerely appreciate your consideration of this Amicus Curiae Letter in support of the Petition for Review of Brinker v. Superior Court.

Very truly yours,

LAW OFFICE OF JOSEPH ANTONELLI



Janelle Carney, Esq.

JC/jr

cc: See Attached Service list

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen (18) and not a party to the within action; my business address is 1000 Lakes Drive, Suite 450, West Covina, CA 91790.

On September 16, I served the foregoing document described as:

**AMICUS CURIAE LETTER IN SUPPORT OF PETITION FOR REVIEW OF BRINKER
V. SUPERIOR COURT (2008) 165 CAL. APP. 4TH 25**

on INTERESTED PARTIES in this action by placing a copy thereof enclosed in sealed envelopes addressed as stated below:

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xx BY MAIL

I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. Postal service on that same day with postage thereon fully prepaid at WEST COVINA, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

Executed on September 16, 2008 at West Covina, California.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.



 Jerin Rudd