

THE KRALOWEC LAW GROUP

188 THE EMBARCADERO, SUITE 800 | SAN FRANCISCO, CA 94105

TELEPHONE: (415) 546-6800 | FACSIMILE: (415) 546-6801

WWW.KRALOWECLAW.COM

KIMBERLY A. KRALOWEC

ELIZABETH I. NEWMAN

ARTHUR C. KRALOWEC, OF COUNSEL

June 29, 2011

VIA U.S. MAIL

The Honorable Chief Justice and Associate Justices of the
California Supreme Court
350 McAllister Street
San Francisco, CA 94102-4797

Re: Amicus Letter in Support of Review: *Lamps Plus Overtime Cases*, 195
Cal.App.4th 389 (2011), Case Nos. S194064, B220954

Dear Honorable Justices:

Pursuant to Rule of Court 8.500(g)(1), I write on behalf of Adam Hohnbaum, Illya Haase, Romeo Osorio, Amanda June Rader, and Santana Alvarado to urge the Court to grant the petition for review in *Lamps Plus Overtime Cases*, Case Nos. S194064, B220954.

Statement of Interest

Adam Hohnbaum, Illya Haase, Romeo Osorio, Amanda June Rader, and Santana Alvarado are the named plaintiffs in *Brinker Restaurant Corp. v. Superior Court (Hohnbaum)*, No. S166350, a meal period and rest break class action now pending before this Court. The trial court in *Brinker* granted class certification of plaintiffs' meal period, rest break, and off-the-clock claims, and defendant employer filed a writ petition. The Court of Appeal (Fourth Appellate District, Division One) reversed the class certification order, and this Court granted review on October 22, 2008. The case is now fully briefed, and awaits oral argument.

Mr. Hohnbaum and his co-workers in *Brinker* have an ongoing interest in any case raising issues that overlap with those raised in their pending action, as they also have an interest in the sound development of the law governing meal period, rest breaks, and other employment law issues in California generally.

Honorable Chief Justice and Associate Justices of the
California Supreme Court
June 29, 2011
Page 2

***Lamps Plus* Should Be Taken Up as a “Grant and Hold”
Case Pending Resolution of *Brinker***

Lamps Plus raises the same core meal period compliance question raised in *Brinker*—that is, whether an employer must relieve workers of all duty so they can take their statutorily-mandated meal periods. See *Lamps Plus*, 2011 WL 1759625 at *6-*8; *Brinker*, Opening Brief on the Merits (filed 01/22/09) at 33-78; *Brinker*, Answer Brief on the Merits (filed 05/01/09) at 24-64; *Brinker*, Reply Brief on the Merits (filed 07/20/09) at 3-19. This Court has already issued “grant and hold” orders in six other cases also raising this core question.¹

For reasons discussed in the accompanying request for depublication, *Lamps Plus* incorrectly decided this question in a manner likely to lead to confusion among litigants and lower courts alike. As an alternative to depublication, because *Lamps Plus* squarely presents the same core question as *Brinker* and the six “grant and hold” cases, the Court is respectfully asked to take up *Lamps Plus* as a “grant and hold” as well.

Conclusion

For the reasons discussed above, the Court is respectfully asked to grant the petition for review and take up the *Lamps Plus* case as a “grant and hold” matter pending resolution of *Brinker*.

Respectfully submitted,


Kimberly A. Kralowec
(State Bar No. 163158)

cc: See attached proof of service

¹ *Brinkley v. Public Storage*, No. S168806 (review granted 01/14/09); *Bradley v. Networkers Int'l*, No. S171257 (review granted 05/13/10); *Faulkinbury v. Boyd & Assoc.*, No. S184995 (review granted 10/13/10); *Brookler v. Radioshack Corp.*, No. S186357 (review granted 11/17/10); *Hernandez v. Chipotle Mexican Grill*, No. S188755 (review granted 01/26/11); *Tien v. Tenet Healthcare Corporation*, No. S191756 (review granted 5/18/11).