

## Michael D. Singer



### Michael D. Singer

Cohelan Khoury & Singer  
San Diego

**Specialties:** class actions, wage and hour issues

On April 12, 2012, the state Supreme Court held that employers must ensure that they provide meal periods within five hours of the start of an employee's shift, but need not ensure that the breaks are taken.

But some subsequent court rulings have erroneously adopted a lower standard for employer compliance, Singer said. The Supreme Court stayed a number of cases while Brinker was pending," he said.

"When these cases went back, the courts of appeal readopted their earlier language to affirm their original rulings," Singer said. "In doing so, they neglected to set forth the complete and accurate Brinker standard."

Keeping those three cases published, Singer added, would have meant confusion to courts and practitioners.

"Companies would have seized on that language to argue against class actions being certified, which is often the only way employees can bring these claims effectively and bring employers into compliance," Singer said.

In another significant matter, Singer was lead counsel in reaching a settlement in a case of unpaid overtime that was litigated for more than eight years on behalf of about 500 dialysis nurses. Many of them received more than \$100,000, he said. *Gallen v. Gambro Healthcare Inc.*, 04CC00571 (Orange County Super. Ct., filed May 3, 2004).

Evaluating the state's labor and employment landscape overall, Singer said that he has noticed some progress being made in the workplace.

Back in the day, he said, "My philosophy was that I'll be out of a job when employers in the state come into compliance with California wage-and-hour laws. I'm not out of a job, but it feels that they are making some progress." The managing partner at Cohelan Khoury & Singer in San Diego, Singer also devotes his time to working pro bono for the California Employment Lawyers Association.

As wage-and-hour amicus liaison for CELA, Singer reviews and contributes to amicus efforts in the appellate courts and state Supreme Court.

Among them, Singer served as amicus liaison for CELA on behalf of employees on a closely watched case pending in the state Supreme Court involving former banking officers who had been classified as exempt and therefore not eligible for overtime pay. *Duran v. U.S. Bank National Association*, 203 Cal. App. 4th 212 (Cal. App. 1st Dist., Feb. 6, 2012, mod. March 6, 2012).



Singer was among those attorneys who managed to convince the state Supreme Court to depublish three appellate decisions that misstated a standard for employer compliance established in the landmark Brinker Restaurant case.

He serves as co-lead counsel for the plaintiffs in what is considered to be one of the most closely watched labor and employment disputes in the history of California. Singer also argued in the 4th District Court of Appeals on remand from the Supreme Court. *Brinker Restaurant Corp. v. Superior Court (2012)*, S166350.