

Civil Case No. S166350

**IN THE SUPREME COURT OF THE
STATE OF CALIFORNIA**

BRINKER RESTAURANT CORPORATION, et al.,
Petitioners,

vs.

SUPERIOR COURT OF THE STATE OF CALIFORNIA FOR THE
COUNTY OF SAN DIEGO,
Respondent.

ADAM HOHNBAUM, ILLYA HAASE, ROMEO OSORIO, AMANDA
JUNE RADER and SANTANA ALVARADO,
Real Parties in Interest.

Petition for Review of a Decision of the Court of Appeal, Fourth Appellate
District, Division One, Case No. D049331, Granting a Writ of Mandate to
the Superior Court for the County of San Diego, Case No. GIC834348
Honorable Patricia A.Y. Cowett, Judge

**APPLICATION FOR LEAVE TO FILE *AMICUS CURIAE*
BRIEF IN SUPPORT OF REAL PARTIES IN INTEREST AND
PROPOSED *AMICUS* BRIEF OF IMPACT FUND, ASIAN LAW
CAUCUS, ASIAN PACIFIC AMERICAN LEGAL CENTER,
EQUAL RIGHTS ADVOCATES, LAWYERS' COMMITTEE
FOR CIVIL RIGHTS, LEGAL AID SOCIETY –
EMPLOYMENT LAW CENTER, MEXICAN AMERICAN
LEGAL DEFENSE & EDUCATIONAL FUND, PUBLIC
ADVOCATES, AND WOMEN'S EMPLOYMENT RIGHTS
CLINIC OF GOLDEN GATE UNIVERSITY
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ADVOCATES, LAWYERS' COMMITTEE FOR CIVIL
RIGHTS, LEGAL AID SOCIETY – EMPLOYMENT LAW
CENTER, MEXICAN AMERICAN LEGAL DEFENSE &
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APPLICATION

I. INTRODUCTION

Pursuant to California Rule of Court 8.520(f), non-profit organizations the Impact Fund, Asian Law Caucus, Asian Pacific American Legal Center, Equal Rights Advocates, Lawyers' Committee for Civil Rights, Legal Aid Society – Employment Law Center, Mexican American Legal Defense & Educational Fund, Public Advocates, and Women's Employment Rights Clinic of Golden Gate University School of law, respectfully request permission to file a collective brief as *amici curiae* in support of the Real Parties in Interest.

As *amicus curiae* briefs are due thirty days after the last reply brief is filed, this brief is timely. Regardless of how the Court rules on the substantive issues in this case, the Court should address the importance of pattern and practice evidence in determining whether a class action should be certified, which the Court of Appeal dismissed out of hand. Such pattern and practice evidence may be probative even where class questions involve subjective factors, such as whether an employer had a discriminatory animus or why employees did not take meal breaks.

II. NATURE OF APPLICANTS' INTEREST

The issues presented in this case implicate the ability of employees and others to use class action lawsuits to enforce civil rights laws and the California Labor Code. *Amici curiae* are non-profit organizations dedicated to advancing and protecting the civil rights of minority groups, women, and persons with disabilities. As part of these efforts, we undertake litigation to

enforce federal and state laws prohibiting discrimination in the workplace. *Amici*'s interest in this matter is to further preserve the ability of victims of discrimination to use pattern and practice evidence at the class certification and merits stages of litigation.

A statement of interest for each *amicus* is set forth below:

A. THE IMPACT FUND

The Impact Fund is a non-profit foundation that provides funding, training, and co-counsel to public interest litigators across the country. It is also a California State Bar Legal Service Trust Fund Support Center, providing services to legal services projects across the state. The Impact Fund offers training programs, advice and counseling, and *amicus* representation to nonprofit organizations regarding class action and related issues. The Impact Fund is lead counsel in a number of class actions including *Dukes v. Wal-Mart Stores*, a nation-wide sex discrimination class action challenging pay and promotion practices at the nation's largest private employer.

B. ASIAN LAW CAUCUS

Established in 1972, the Asian Law Caucus, Inc. (ALC) is the country's oldest civil rights and public interest legal organization serving the Asian Pacific American community. The ALC represents primarily low-income, monolingual, or limited English proficient Asian Pacific Americans in the areas of employment/labor, immigration, housing/community development, and civil rights. ALC has represented Asian Pacific American workers in numerous wage and hour cases, including minimum wage and overtime claims brought as class actions.

C. ASIAN PACIFIC AMERICAN LEGAL CENTER OF SOUTHERN CALIFORNIA

The Asian Pacific American Legal Center of Southern California (APALC) was founded in 1983 and is the largest non-profit public interest law firm devoted to the Asian Pacific American community. APALC provides direct legal services and uses impact litigation, public advocacy and community education to obtain, safeguard and improve the civil rights of the Asian Pacific American community. Most of APALC's current litigation involves representation of low wage workers against corporate employers.

D. EQUAL RIGHTS ADVOCATES

Equal Rights Advocates (ERA) is a San Francisco based human and civil rights organization dedicated to securing legal and economic equality for women through litigation, advocacy and public education. Since its inception in 1974 as a teaching law firm focused on sex-based discrimination, ERA has represented the rights of women in the courts, legislatures, and public education campaigns. ERA uses class actions in its work to obtain broad injunctive relief that will benefit large groups of women. ERA has a strong interest in ensuring that the Fair Employment and Housing Act (FEHA) remains an effective tool for redressing systemic discrimination through impact litigation.

E. LAWYERS' COMMITTEE FOR CIVIL RIGHTS

The Lawyers' Committee for Civil Rights of the San Francisco Bay Area ("Lawyers' Committee") is a civil rights and legal services organization devoted to advancing the rights of people of color, low-income individuals, immigrants and refugees, and other underrepresented persons. The Lawyers' Committee is affiliated with the Lawyers'

Committee for Civil Rights Under Law in Washington, D.C., which was created at the behest of President Kennedy in 1963. In 1968, the Lawyers' Committee was established by leading members of the private bar in San Francisco. Throughout its history, the Lawyers' Committee has dedicated itself to ensuring access of all qualified persons to an employment environment free from discrimination. In order to achieve this goal, victims of discrimination must enjoy full and fair access to the judicial process.

F. **LEGAL AID SOCIETY - EMPLOYMENT LAW CENTER**

The Legal Aid Society - Employment Law Center (LAS-ELC) has long litigated on behalf of persons of color, recent immigrants, women, individuals with disabilities, sexual minorities, and other traditionally subordinated, low income communities on issues of workplace rights.

G. **MEXICAN AMERICAN LEGAL DEFENSE & EDUCATIONAL FUND**

Mexican American Legal Defense and Educational Fund (MALDEF) is the leading nonprofit Latino litigation, advocacy and educational outreach institution in the United States. Established in 1968, MALDEF's mission is to foster sound public policies, laws and programs to safeguard the civil rights of the 40 million Latinos living in the United States and to empower the Latino community to fully participate in our society. MALDEF achieves its mission by concentrating its efforts in the areas of employment, education, immigration, and political access. MALDEF has litigated numerous class action cases since the organization's founding.

H. PUBLIC ADVOCATES, INC.

Public Advocates, Inc. is a non-profit, public interest law firm and one of the oldest public interest law firms in the nation. Public Advocates uses diverse litigation and non-litigative strategies to handle exclusively policy and impact cases to challenge the persistent, underlying causes and effects of poverty and discrimination.

I. WOMEN'S EMPLOYMENT RIGHTS CLINIC OF GOLDEN GATE UNIVERSITY SCHOOL OF LAW

The Women's Employment Rights Clinic (WERC) is a clinical training program of Golden Gate University School of Law focused on the employment issues of low-wage workers. WERC advises, counsels and represents clients in a variety of employment-related matters, and has represented hundreds of workers in individual and systemic wage and hour cases.

III. PURPOSE OF PROPOSED BRIEF OF *AMICI CURIAE*

This proposed brief presents arguments that materially add to and complement the brief on the merits of the Real Party in Interest without repeating those arguments. *Amici curiae* have many years of experience litigating employment discrimination class action cases involving the type of pattern and practice evidence at issue here. The proposed brief will assist the Court by placing the Court of Appeal's decision in the context of other class actions where pattern and practice evidence has long played an important role in demonstrating the existence of common, class-wide questions and creating inferences about an employer's intent.

IV. CONCLUSION

Because the proposed brief will assist in deciding this matter, the Court should grant permission for it to be filed.

Dated: August 17, 2009

Respectfully submitted,



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TABLE OF CONTENTS

	<u>Page</u>
BRIEF	1
I. INTRODUCTION.....	1
II. ARGUMENT	2
1. The Pattern or Practice Theory Relied Upon in This Case Made It Particularly Amenable to Class Treatment	2
2. The Court of Appeal Erroneously Rejected Pattern Evidence Out of Hand	5
3. The Decision Below Contravenes This Court’s Holdings on the Proper Role of a Court Reviewing a Class Certification Order.....	10
III. CONCLUSION	11

TABLE OF AUTHORITIES

Page

CALIFORNIA CASES

<i>Alch v. Superior Court</i> , 122 Cal. App. 4th 339 (2004).....	4, 7, 8
<i>Alch v. Superior Court</i> , 165 Cal. App. 4th 1412 (2008)	7
<i>Bell v. Farmers Ins. Exchange</i> , 115 Cal. App. 4th 715 (2004)	7
<i>Brinker Rest. Corp. v. Superior Court</i> , 80 Cal. Rptr. 3d 781 (2008).....	5, 6, 7
<i>Capitol People First v. Dep't of Dev. Servs.</i> , 155 Cal. App. 4th 676 (2007).....	6, 8
<i>Employment Dev. Dep't v. Superior Court</i> , 30 Cal. 3d 256 (1981).....	5, 6
<i>Gonzales v. Jones</i> , 116 Cal. App. 3d 978 (1981).....	5
<i>Linder v. Thrifty Oil Co.</i> , 23 Cal. 4th 429 (2000).....	9, 10
<i>Reyes v. San Diego County Bd. of Supervisors</i> , 196 Cal. App. 3d 1263 (1987).....	4, 5
<i>Sav-on Drug Stores, Inc. v. Superior Court</i> , 34 Cal. 4th 319 (2004).....	<i>passim</i>

FEDERAL CASES

<i>Armstrong v. Davis</i> , 275 F.3d 849 (9th Cir. 2001)	8
<i>Califano v. Yamasaki</i> , 442 U.S. 682 (1979).....	5

TABLE OF AUTHORITIES: (continued)

	<u>Page</u>
<i>Cooper v. Fed. Reserve Bank</i> , 467 U.S. 867 (1984).....	2, 3
<i>Int'l Bhd. of Teamsters v. United States</i> , 431 U.S. 324 (1977).....	<i>passim</i>

OTHER AUTHORITIES

1 Lindemann & Grossman, <i>Employment Discrimination Law</i> , 45 (3d ed. 1996).....	7
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BRIEF

I. INTRODUCTION

Regardless of how this Court determines the substantive issues raised in this case, *amici* submit this brief to focus on a clear error in the Court of Appeal's ruling. Although for decades federal and California courts have emphasized the critical role statistical and survey evidence play in class adjudication, the Court of Appeal in this case gave no weight to such evidence relied upon by the trial court. Its decision is not isolated—*amici* have observed other courts who have down-played, ignored, or outright rejected such pattern evidence on the mistaken belief that such evidence has no bearing on asserted “individualized” decisions.

This Court has emphasized that the mere presence of individual issues does not preclude class certification; rather, a comparative analysis is required to determine if individual issues predominate over common issues. A central common issue in many class cases is whether a defendant's conduct amounts to a pattern or practice of illegal behavior. Absent an admission by the defendant or a written policy, the primary way to establish an illegal pattern or practice is by statistical evidence. The United States Supreme Court and this Court have embraced the pattern or practice theory and the role it plays in class litigation. Whether it reverses the Court of Appeal's substantive rulings or not, this Court should reaffirm its precedential rulings, emphasize the important role that statistics and other pattern evidence play in class action cases, and reverse the Court of Appeal's rejection of such evidence.

The Court of Appeal also erred when it substituted its evaluation of the evidence for the trial court in the first instance, and then, after announcing a new rule of law, failed to remand the case to allow the trial court to fulfill its role of applying the newly announced law to the facts of the case.

II. ARGUMENT

1. The Pattern or Practice Theory Relied Upon in This Case Made It Particularly Amenable to Class Treatment

In assessing whether common questions predominate, courts must focus on the nature of the claim asserted and the theory of recovery. *Sav-on Drug Stores, Inc. v. Superior Court*, 34 Cal. 4th 319, 327 (2004). In this case, the plaintiffs essentially asserted that Brinker engaged in a pattern or practice of violating California's labor laws.

The pattern or practice theory asserted by plaintiffs in this case was comprehensively described in *International Brotherhood of Teamsters v. United States*, 431 U.S. 324 (1977).¹ In that nationwide employment discrimination case, the United States alleged that the defendant company had a pattern and practice of intentional discrimination against minority job applicants and would-be applicants for truck driver positions. The Court explained that at the liability stage of the case, the government had to prove "more than the mere occurrence of isolated or 'accidental' or sporadic discriminatory acts. It had to establish by a preponderance of the evidence

¹ Although *Teamsters* was not a class action, the Supreme Court has confirmed that "the elements of a prima facie pattern-or-practice case are the same in a private class action." *Cooper v. Fed. Reserve Bank*, 467 U.S. 867, 876 n.9 (1984).

that racial discrimination was the company's standard operating procedure—the regular rather than the unusual practice.” *Id.* at 336. The government made this showing through a combination of statistical and anecdotal evidence. *Id.* at 337-38.

At the liability stage of a pattern and practice case, the plaintiffs need not offer

evidence that each person for whom it will ultimately seek relief was a victim of the employer's discriminatory policy. Its burden is to establish a prima facie case that such a policy existed. The burden then shifts to the employer to defeat the prima facie showing of a pattern or practice by demonstrating that the Government's proof is either inaccurate or insignificant.

Id. at 360.

The point is that at the liability stage of a pattern-or-practice trial the focus often will not be on individual hiring decisions While a pattern might be demonstrated by examining the discrete decisions of which it is composed, the Government's suits have more commonly involved proof of the expected result of a regularly followed discriminatory policy.

Id. at 360 n.46. In other words, the liability stage focuses on the defendant's policy as it applies to the entire class.

If the defendant fails to rebut the prima facie case, liability is established and the trial court determines the appropriate remedy. “*Without any further evidence* from the Government, a court's finding of a pattern or practice justifies an award of prospective relief. Such relief might take the form of an injunctive order against continuation of the discriminatory practice” *Id.* at 361 (emphasis added); *see also Cooper*, 467 U.S. at 876 (“[A] finding of a pattern or practice of discrimination itself justifies an

award of prospective relief to the class”). Importantly, such relief is issued without any requirement of assessing the claims of individual class members. If individual relief is sought, “a district court must usually conduct additional proceedings after the liability phase of the trial to determine the scope of individual relief.” *Teamsters*, 431 U.S. at 361.²

The *Teamsters* pattern and practice approach was adopted by this Court. See *Sav-on*, 34 Cal. 4th at 333-34 & n.6. “California courts and others have in a wide variety of contexts considered pattern and practice evidence, statistical evidence, sampling evidence, expert testimony, and other indicators of a defendant’s centralized practices in order to evaluate whether common behavior towards similarly situated plaintiffs makes class certification appropriate.” *Id.* at 333; see also *Alch v. Superior Court*, 122 Cal. App. 4th 339, 379-381 (2004) (applying *Teamster*’s pattern and practice theory in California Fair Employment & Housing Act case); *Reyes v. San Diego County Bd. of Supervisors*, 196 Cal. App. 3d 1263, 1279 (1987) (holding that whether county applied an unlawful process in terminating General Assistance benefits did not require examining facts of each class member but could be determined through review of evidence about “standard practices followed in making . . . decisions, as well as a *sampling* of representative cases” (emphasis in original)).

In this case, plaintiffs have offered common evidence of defendants’ practices and policies sufficient to establish common factual issues about the illegality of defendants’ conduct. Plaintiffs’ intended use of expert

² In such additional proceedings, all class members are presumed entitled to relief, but a defendant can defeat individual relief by proving that an individual was denied an employment opportunity for a lawful reason. *Teamsters*, 431 U.S. at 361-62.

testimony, statistics, and sampling evidence is consistent with recognized methods of proof in class litigation. *See, e.g., Sav-on*, 34 Cal. 4th at 333 & n.6; *Reyes*, 196 Cal. App. 3d at 1279.

This Court has noted that “many cases have recognized that a class action is a ‘peculiarly appropriate’ vehicle for providing effective relief when . . . a large number of applicants or recipients have been improperly denied governmental benefits on the basis of an invalid regulation, statute or administrative practice.” *Employment Dev. Dep’t v. Superior Court*, 30 Cal. 3d 256, 265 (1981) (citing, *inter alia*, *Califano v. Yamasaki*, 442 U.S. 682, 701 (1979); *Gonzales v. Jones*, 116 Cal. App. 3d 978, 984-85 (1981)). “These and many other authorities demonstrate that a class action is not inappropriate simply because each member of the class may *at some point* be required to make an individual showing as to his or her eligibility for recovery or as to the amount of his or her damages.” *Id.* at 266 (emphasis added).

2. The Court of Appeal Erroneously Rejected Pattern Evidence Out of Hand

In reviewing the trial court’s class certification ruling, the Court of Appeal categorically rejected the lower court’s reliance on statistical and similar pattern evidence and proposed survey evidence because it concluded that such evidence “does not change the individualized inquiry.” *Brinker Rest. Corp. v. Superior Court*, 80 Cal. Rptr. 3d 781, 801 (2008). The Court of Appeal erred, however, in assuming that an individualized inquiry for each class member would be required to determine class liability in a pattern or practice case. *See, e.g., Teamsters*, 431 U.S. at 360. To the extent the court rested its opinion on an assumption that the necessity of individualized inquiries at a later stage of the action was

incompatible with class certification, it also erred. *See, e.g., Sav-on*, 34 Cal. 4th at 332-334; *Employment Dev. Dep't*, 30 Cal. 3d at 265.

Rather, where individual issues are present, the trial court must make a comparative analysis to determine whether individual issues predominate. *Sav-on*, 34 Cal. 4th at 334. In this case, the trial court made such a comparative analysis and held that defendant's theory of the case, if accepted, "may require some individualized discovery," but that "the common alleged issues of meal and rest violations predominate." Minute Order, Superior Court of California, County of San Diego, No. GIC834348, 1PE2 (July 6, 2006).

The Court of Appeal's error was compounded by its assumption that statistical and survey evidence would not be probative where liability turns in part upon subjective factors, such as "why" meal or rest breaks are missed. *Brinker*, 80 Cal. Rptr. 3d at 801. The *Brinker* court's approach is incompatible with the pattern and practice theory and is simply untenable; such a standard would deny class treatment in most pattern or practice cases. As one recent case explained in reversing a denial of class certification because the trial court had "discard[ed] out of hand appellants' pattern and practice evidence," such an approach "turned its back on methods of proof commonly allowed in the class action context." *Capitol People First v. Dep't of Dev. Servs.*, 155 Cal. App. 4th 676, 695 (2007). *Capitol People First* stands in sharp contrast to the understanding of the *Brinker* court, which acknowledged that courts may use pattern and practice evidence to determine the propriety of class certification, but ultimately "discard[ed] out of hand," *id.*, the possibility that plaintiffs could have proffered such evidence to demonstrate the predominance of common questions, *Brinker*, 80 Cal. Rptr. 3d at 801, 809-10. The court did so by

failing to recognize that statistical and survey evidence could create an inference that Brinker employees were not taking meal or rest breaks as the result of a class-wide policy or practice prohibiting breaks. *See id.* at 809-10 (explaining that pattern and practice evidence could never show why meal breaks were not taken).

The Court of Appeal's assertion that breaks must be evaluated on an individual basis ignores the theory of plaintiffs' case—that there was a pattern or practice of denying meal and rest periods—and rules out the primary evidence that could show such a pattern. The same rationale would deny class treatment in a pattern or practice employment discrimination case on the grounds that, for example, statistical evidence that African Americans obtained fewer jobs does not show *why* they were denied these jobs. But the Supreme Court rejected this very argument when it confirmed that statistics supported a finding that there was a pattern of adverse decision-making. *Teamsters*, 431 U.S. at 337-339.³ While statistics alone may not provide “the reasons” for an employer's decision, a pattern of conduct demonstrated by statistics can raise an inference of class-wide unlawful behavior, whether in the context of a wage and hour violation or employment discrimination. If liability is subsequently established, each class member is then presumed to have been subjected to the unlawful behavior. *See, e.g., Bell v. Farmers Ins. Exchange*, 115 Cal. App. 4th 715, 750 (2004), *cited with approval in Sav-on*, 34 Cal. 4th at 333.

³ *See also Alch v. Superior Court*, 165 Cal. App. 4th 1412, 1428 (2008) (“Statistical proof is indispensable in a disparate impact case”); *Alch*, 122 Cal. App. 4th at 380 (“Plaintiffs ‘normally seek to establish a pattern or practice of discriminatory intent by combining statistical and nonstatistical evidence’”) (quoting 1 Lindemann & Grossman, *Employment Discrimination Law*, 45 (3d ed. 1996)).

In this case, plaintiffs offered pattern and practice evidence showing that most meal or rest breaks were never taken. In addition they proposed to take surveys to demonstrate that employees felt compelled to forego meals and breaks. They offered expert evidence that a survey could in fact answer the “why” question and demonstrate that meal and rest breaks were missed because of the employer’s policy, and not because of employee preference. *See* 25PE6924-6938.⁴ Indeed, Brinker itself offered survey evidence and there was evidence that the DLSE had conducted an earlier survey. 21PE5770-5910. Such evidence, if statistically significant, could be indicative of a class-wide policy or practice by defendant of discouraging or preventing meal and rest periods. *See Alch*, 122 Cal. App. 4th at 381 n.35 (“Statistics alone may be used to establish a prima facie pattern-or-practice case where a gross, statistically significant, disparity exists.” (internal quotation marks omitted)); *see also Capitol People First*, 155 Cal. App. 4th at 692-93 (“[C]ourts may consider pattern and practice [or] statistical and sampling evidence . . . to assess whether that common behavior toward similarly situated plaintiffs renders class certification appropriate.”); *Armstrong v. Davis*, 275 F.3d 849, 868 (9th Cir. 2001) (“[C]ommonality is satisfied where the lawsuit challenges a system-wide practice or policy that affects all of the putative class members.”).

⁴ The parties were precluded from obtaining merits discovery prior to class certification. Following the class certification order, the court ordered the parties to exchange expert reports on survey and statistical evidence and then come back to discuss how a trial could be managed. 2RJN7522-7548; 2RJN7444:17-18. Ironically, the Court of Appeal granted the writ and stayed discovery when this process was nearly completed. Thus, the Court of Appeal never considered much of the expert merits evidence plaintiffs developed.

Alternatively, such evidence could raise an inference of the *impossibility* of taking meal or rest breaks due to class-wide employment policies not directly addressing breaks but which affect the ability of employees to take breaks without jeopardizing their employment or earnings. Of course, taking note of the potential of such statistical evidence at the class certification stage does not bind the finder of fact at the merits stage, where such evidence may be supplemented by additional evidence and sources of proof.

This Court should use this case to emphasize that lower courts cannot cavalierly reject the pattern or practice theory or pattern evidence at the class certification stage where such evidence demonstrates common proof that could be proffered by the plaintiffs. It is well established that at the class certification stage, the trial court does not weigh the strength or merits of such evidence, only whether it supports a finding that common questions predominate. *See Linder v. Thrifty Oil Co.*, 23 Cal. 4th 429, 438-40 (2000). It was up to the trial court in the first instance to determine whether statistical and survey evidence were probative of common issues. It so found, regardless of whether plaintiffs or defendant's substantive legal theory was correct, and its conclusion was supported by admissible evidence and this Court's decisions. The Court of Appeal's substitution of its judgment was thus a clear error and must be reversed. *Sav-on*, 34 Cal. 4th at 338.

3. **The Decision Below Contravenes This Court’s Holdings on the Proper Role of a Court Reviewing a Class Certification Order**

Trial courts “are afforded *great discretion* in granting or denying certification” and their rulings on class certification will stand unless “improper criteria were used” or “erroneous legal assumptions were made.” *Sav-on*, 34 Cal. 4th at 326-27 (quoting *Linder*, 23 Cal. 4th at 435-36)) (emphasis added). For this reason, “[w]here a certification order turns on inferences to be drawn from the facts, the reviewing court has no authority to substitute its decision for that of the trial court.” *Id.* at 328 (internal quotation marks omitted) (alteration in original). As noted above, the Court of Appeal failed to defer to the trial court’s findings. But it compounded its error by refusing to allow the trial court to apply its newly minted legal rule.

Here, the Court of Appeal first determined that employers need only make available meal and rest periods, not ensure that they are actually taken. After announcing this new interpretation of the Labor Code and regulations, the Court of Appeal proceeded to examine the evidence presented to the trial court and decide that plaintiffs had failed to demonstrate the predominance of common questions. This was procedurally improper. Instead, because “the weight of the evidence [is] a matter generally entrusted to the trial court’s discretion,” *id.* at 334, the Court of Appeal should have accepted the trial court’s finding that common questions predominated even if the more lenient meal period standard urged by *Brinker* governed. Alternatively, the Court of Appeal should have remanded the case to the trial court to apply its newly announced legal standards and reconsider its class certification decision in light of those standards. Such a remand would have permitted the lower court to

determine whether the proffered statistical and survey evidence continued to lead to an inference that defendant had a class-wide policy or practice of routinely preventing and/or discouraging its hourly employees from taking breaks.

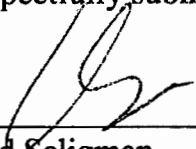
In other words, where certification of the class could “turn[] on inferences to be drawn from the facts,” *id.* at 328, the proper sequence is for the reviewing court to rule on the legal question and then remand to permit the trial court to determine what inferences can be drawn from the pattern and practice evidence. In this case, the trial court never had the opportunity to apply the facts to the new substantive rule established by the Court of Appeal. This Court should overturn that approach to preserve the role of the trial court as required in *Sav-on*. *See id.* at 328, 334.

III. CONCLUSION

Amici submit that the decision of the Court of Appeal should be reversed, and the class certification order issued below be affirmed.

Dated: August 17, 2009

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CERTIFICATE OF COMPLIANCE WITH CALIFORNIA
RULE OF COURT 8.204(c)(1)

I, BRAD SELIGMAN, declare that:

I am Executive Director at the Impact Fund, counsel for *amici curiae* in the above-captioned case.

I certify that the forgoing Proposed Brief of *amici curiae* contains 2,985 words, including footnotes, as counted by the Microsoft Word program used to generate this brief.

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

Executed on August 17, 2009, at Berkeley, California.



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PROOF OF SERVICE

I am a resident of the State of California, over the age of 18 years, and not a party to the within action. My business address is 125 University Avenue, Suite 102, Berkeley, California 94710.

On August 17, 2009, I served the foregoing document(s) described as

APPLICATION FOR LEAVE TO FILE *AMICUS CURIAE* BRIEF IN SUPPORT OF REAL PARTIES IN INTEREST AND PROPOSED *AMICUS* BRIEF OF IMPACT FUND, ASIAN LAW CAUCUS, ASIAN PACIFIC AMERICAN LEGAL CENTER, EQUAL RIGHTS ADVOCATES, LAWYERS' COMMITTEE FOR CIVIL RIGHTS, LEGAL AID SOCIETY – EMPLOYMENT LAW CENTER, MEXICAN AMERICAN LEGAL DEFENSE & EDUCATIONAL FUND, PUBLIC ADVOCATES, AND WOMEN'S EMPLOYMENT RIGHTS CLINIC OF GOLDEN GATE UNIVERSITY SCHOOL OF LAW

on the person(s) listed below by placing said copy with postage thereon fully prepaid, in the United States mailbox at 125 University Avenue, Suite 102, Berkeley, California, addressed as follows:

Office of the Clerk
SUPERIOR COURT FOR THE
COUNTY OF SAN DIEGO
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I declare under penalty of perjury under the laws of the State of
California that the foregoing is true and correct.

Executed August 17, 2009 at 125 University Avenue, Suite 102,
Berkeley, California.


Tony Dang