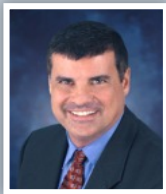




## Los Angeles Advertising Human Resources Professionals

### California's Overtime Laws Do Not Distinguish Between Residents and Nonresidents

By Scott A. Freedman, Esq.



On June 30, 2011, in *Sullivan v. Oracle Corporation*, the U.S. Court of Appeals for the Ninth Circuit ruled on the issue of whether California law applies to non-residents employees who work both in California and in other states involving a California-based employer.

The Court concluded that the Labor Code's overtime provisions apply to work performed in California by nonresident employees who work both here and in other states for a California-based employer.

Claims that California-based employer violated Labor Code overtime provisions may serve as predicates for claims under California's unfair competition law.

Claims for overtime compensation under the federal Fair Labor Standards Act of 1938, based on work performed for such employer in other states, however, cannot serve as predicates for UCL claims.

The plaintiff worked as an "Instructor" for Oracle corporation, whose job was to train Oracle's customers in the use of company products. The plaintiff resided in Colorado, and would travel to California for work as well. The plaintiff made a claim for overtime compensation under the Labor Code for days longer than eight hours, worked entirely in California.

The Court concluded that California's overtime laws did not distinguish between residents and nonresidents. Therefore, employers should ensure that their nonresident employees performing work in California be provided overtime according to California law.

Scott A. Freedman  
Attorney at Law  
Morris Polich & Purdy LLP  
213.417.5317  
[sfreedman@mpplaw.com](mailto:sfreedman@mpplaw.com)

