

February 9, 2009

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By Overnight Delivery

Honorable Ronald M. George  
Chief Justice of the State of California  
and the Honorable Associate Justices  
of the Supreme Court of California  
350 McAllister Street  
San Francisco, CA 94102

Re: Letter in Support of Wal-Mart's Opposition to Request for Depublication of *Brewer v. Premier Golf* (Supreme Court Case No. S169666; Ct. App. Case No. D050686)

Dear Chief Justice George and Associate Justices:

This letter is submitted on behalf of the Chamber of Commerce of the United States of America ("the Chamber"), to join in Wal-Mart Stores, Inc.'s and Sam's West Inc.'s opposition to the requests for depublication of *Brewer v. Premier Golf Properties* (2008) 168 Cal.App.4th 1243, filed by the *Savaglio* class on January 30, 2009, and by the Consumer Attorneys of California on February 2, 2009.

The Chamber is the world's largest business federation, and represents an underlying membership of more than three million companies and professional organizations nationwide. It regularly advocates the interests of its members in matters before Congress, the Executive Branch, and the courts. The Chamber often submits briefs as *amicus curiae* in litigation raising issues of concern to the Nation's business community. It filed such an *amicus* brief in July 2008 in *Savaglio v. Wal-Mart Stores, Inc.*, Nos. A116458, A116459, A116886 (1st Dist.), in which members of the Chamber were the target of class action litigation resulting in a \$115 million dollar punitive damage award.


In its brief as *amicus curiae* in the *Savaglio* case, the Chamber demonstrated that punitive damages are generally a disfavored remedy under state law, that no statute in any of the 50 States expressly authorizes punitive damages for a wage or hour claim, and that there are substantial federal constitutional issues with ever awarding punitive damages for such claims.

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Consistent with these views, *Brewer* properly held that that plaintiffs may not recover punitive damages when liability is premised solely on the employer's violation of the state Labor Code statutes that regulate meal and rest breaks. The Chamber has an interest in having case law such as *Brewer* stay on the books. The holding and analysis would provide useful guidance for the Court of Appeal in *Savaglio* in resolving whether the *Savaglio* plaintiffs may recover punitive damages for alleged violations of the same statutes.

For the reasons stated above, and for the reasons that Wal-Mart explains in its own letter, the *Brewer* decision clearly qualifies for publication and should not be depublished.

Sincerely,



Beth S. Brinkmann (No. 129937)

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cc: Attached Service List

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(Code Civ. Proc. secs. 1013(c), 2015.5)

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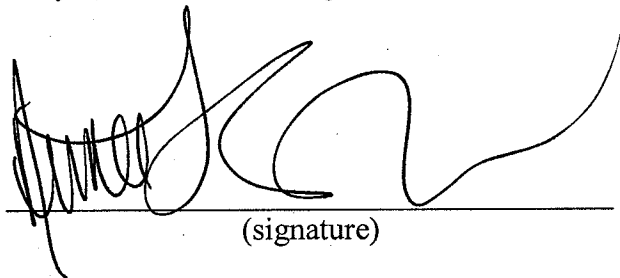
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I certify under penalty of perjury that the foregoing is true and correct, and that this Certificate of Service was executed by me on February 9, 2009, in Washington, D.C.

\_\_\_\_\_  
Aimee L. Snow  
(typed)

  
\_\_\_\_\_  
(signature)