



CLIENT NEWS BRIEF

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CONTRACTED MAINTENANCE WORK IS SUBJECT TO PREVAILING WAGE LAW

A recently published opinion from the First Appellate District of California entitled *Reliable Tree Experts v. Baker (Caltrans)* (October 7, 2011) ___ Cal.App.4th ___ (2000 WL 35918591) affirmed the trial court ruling that a one-time contract for pruning and removal of diseased trees along state highways was performed as "maintenance work" and was therefore subject to prevailing wage laws.

Caltrans advertised for bids to prune and remove diseased trees at various specified locations along state highways. In a written checklist distributed at a pre-bid/pre-construction conference, Caltrans noted the project would require payment of not less than the prevailing wage rates to all workmen employed in the execution of the contract.

After going through the bidding process, the contract was awarded to Reliable Tree Experts ("Reliable"). Reliable's work on the project lasted approximately nine months and included one-time work to prune and/or remove diseased trees along state highways, but did not involve ongoing maintenance of the trees. Caltrans has a continuing obligation to maintain the rights-of-way along state highways, and periodically awards contracts to Reliable and other contractors for general maintenance.

Because this was a one-time project, Reliable argued that the tree felling, removal and heavy pruning required by the contract did not require payment of prevailing wages. The court disagreed, finding that maintenance work is within the general definition of public works. The court further held that tree maintenance includes removal and pruning because such work is a routine, recurring and usual activity for Caltrans. The court opined when determining whether work is "routine, recurring and usual," the focus must be on the work, not the terms of an individual contract.

While this case does not significantly impact the application of existing law, it does clarify the applicability of prevailing wage laws.

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If you have any questions about this case or how it may relate to your local agency operations, please contact one of our [eight offices](#) located statewide, visit our [website](#), or follow Lozano Smith on [Facebook](#).

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