

[Ninth Circuit Denies En Banc Review of Golden Gate Restaurant Association](#)

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On March 9, 2009, the Ninth Circuit denied a petition for *en banc* review of [Golden Gate Restaurant Ass'n v. City and County of San Francisco](#), 546 F.3d 639 (9th Cir. 2008) wherein the Court of Appeals found that a San Francisco city ordinance requiring that all employers in the city make mandatory contributions towards employee health costs was not preempted by ERISA. Eight (generally conservative) judges joined a dissent authored by Judge Milan Smith, Jr. criticizing the decision not to rehear the case *en banc*, and noted that there is now a split with the Fourth Circuit; specifically, [Retail Industry Leaders Ass'n v. Fielder](#), 475 F.3d 180 (4th Cir. 2007). In light of this split, many believe that the United States Supreme Court will accept an expected petition for certiorari.

See also [Golden Gate Restaurant Ass'n](#) case summary.