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## [To Register Or Not To Register -- That Is The Question](#)

If your garment manufacturing work is done in California, you need to register with the California Labor Commissioner or you could face heavy fines.

California law requires California garment manufacturers and contractors to register with the Labor Commissioner. The registration requirement applies not only to persons who directly employ garment workers, but also to those persons who contract with others to have that work done.

A Sheppard Mullin Client recently faced the question of whether apparel design work qualifies as "garment manufacturing" for purposes of this registration requirement. In March 2011, the California Division of Labor Standards Enforcement ("DLSE") made an unannounced site visit and fined the Client \$75,000 for failing to register as a garment manufacturer. The Client does have California employees that design apparel. However, the Client does not have any California employees who engage in any "sewing, cutting, making, processing, repairing, finishing, assembling" any apparel or accessories that were designed or intended to be worn by any individual .... for sale or resale." The actual garment manufacturing is done by contractors outside of California, primarily in Asia. The Client also does not contract or subcontract with any California company for garment manufacturing. The only physical or "garment preparation" work the Client does in California is a limited amount of embroidery on apparel that is given away for promotional reasons. None of that work is done for either sale or resale.

Sheppard Mullin appealed the citation and went to hearing before the DLSE. Following the hearing, the DLSE dismissed the citation. The DLSE Hearing Officer concluded that on these facts, design work is not garment manufacturing --- and therefore, the Client was not required to register.

If the Client had done its embroidery work in California for sale or resale, the result would have presumably been different. The result would obviously have also been different if the Client had used other companies which themselves have California garment workers. Finally, It should be noted that it is possible that the DLSE could come to a different conclusion in other cases. But for those California companies that employ only apparel designers and not garment workers, this is a welcome development --- and means one less bureacratic obstacle to hurdle.