

his cause of action for unpaid wages due upon discharge for amounts he alleges he was entitled to had Ralphs not calculated the bonus by deducting for cash and merchandise shortages.

- 11 Justice Schauer's concurring opinion in *Kerr's* recognized the benefit to both employer and employee of profit-based wages: "The employer, of course, has the benefit of increased productivity ... [and] the [employee], with little risk and with much to gain, acquires the additional status of entrepreneur, making it possible for him to realize tangible rewards for his diligence and care. In incorporating such a [n] ... agreement the parties exercise their constitutional freedom to contract, in a manner consonant with the declared public policy of the state. Our decision today should not be interpreted as encouraging further governmental impairment of that essential freedom." (*Kerr's, supra*, 57 Cal.2d at p. 334, 19 Cal.Rptr. 492, 369 P.2d 20 (conc. opn. of Schauer, J).)
- 12 According to Ralphs, the bonus plan applies to "store-level managers." Thus, whether the allegation in the complaint that other types of managers and employees are paid a bonus according to the challenged formula holds true must be addressed at a subsequent point in the litigation. (See fn. 9, *ante*.)
- * Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to [article VI, section 6 of the California Constitution](#).

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