

**Time Spent Undergoing Security Screenings Not Compensable**

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The U.S. Supreme Court recently ruled that time spent by employees waiting to undergo workplace security screenings is not compensable. [Integrity Staffing Solutions, Inc. v. Busk](#).

Integrity required employees at its warehouse operations to undergo anti-theft screenings at the end of each shift. The process took up to 25 minutes each day, during which time the employees received no pay. As a result, the employees filed suit claiming they should have been paid as the screenings were purely for the benefit of the employer, and that the time spent could have been reduced to a de minimis amount had the employer added additional screeners, or staggered shift ending times.

In ruling against the employees, the Court reviewed the history of the Fair Labor Standards Act and the subsequent Portal to Portal Act, which narrowed the definition of compensable work time. While any time spent performing “principal activities” is compensable, under the Portal to Portal Act, time spent on “preliminary” or “postliminary” activities, which are those performed prior to or after an employee’s “principal activities,” is non-compensable. To be considered a “principal activity” the work must be an “integral and indispensable” part of the work the employee is hired to perform. Stated differently, to be considered paid time, the activity must be necessary, and if eliminated would prevent the employee from performing the job for which they were hired.

The Court went on to provide examples from prior cases to differentiate paid and unpaid time. Found compensable was time spent by battery-plant employees showering and changing clothes after their shift because they worked with toxic chemicals, and such showering was an integral and indispensable part of the safe performance of their job. Also, time spent by meatpackers sharpening their knives was a necessary activity, which if not performed would prevent an employee from performing their central job of butchering animals.

By contrast, time spent clocking in or out, changing clothes or showering where such activities were merely for the convenience of the employee, and waiting for paychecks to be disbursed, has been found to be non-compensable.

Given this background, the Court found that the time spent waiting to undergo security screenings in the instant case was non compensable because the screenings were not an integral and indispensable element of the employees' principal duties, which were to retrieve and package products for shipment to customers. In essence, with or without the screenings, the employees could still fully perform their principal warehouse tasks.

The Court specifically rejected the employees' two main arguments. Just because the screenings were required by the employer does not convert the time to paid time. As stated by the Court, applying such a standard would "sweep into principal activities the very activities the Portal to Portal Act was designed to address." Further, even if the amount of time could have been reduced by adding screeners or staggering shift times, doing so would not have changed the fact that any time spent in the screening process was unrelated to the principal duties for which the employees were hired.

This case illustrates the need to carefully analyze any non-compensable time spent by employees at work in order to make sure such unpaid time meets the tests enunciated by the Court.

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