

Third Circuit Holds that Employees Not Entitled to Wages during Unpaid Portion of Mealtime

In a decision released yesterday with implications for both public and private employers, a three judge panel of the U.S. Court of Appeals for the Third Circuit found the 'predominant benefit' test should be used to determine whether mealtime breaks constitute compensable time under the Fair Labor Standards Act (FLSA).

In *Babcock v. Butler County*, No. 14-1467, the Third Circuit held that the district court properly dismissed a putative class action brought by a county corrections officer. The plaintiff claimed that officers were given a one-hour meal-break of which 45 minutes were compensated while 15 minutes were unpaid. During the meal period, officers could not leave the prison without permission and were required to remain in uniform, near emergency equipment and respond to emergency calls. The plaintiff argued that officers should be compensated for the entire meal period due to these restrictions.

No FLSA provision directly addresses the issue of whether employee mealtime is compensable outside the law enforcement or fire protection context. Other circuit courts have applied two tests to determine whether mealtimes were compensable: whether an employee was relieved from all duties during the period; or whether the employer or the employee received the 'predominant benefit' of the meal-break. The Court of Appeals adopted the predominant benefit test which asks whether an employee is primarily engaged in work-related duties during the meal period.

The Third Circuit noted that the predominant benefit test is a fact-intensive inquiry which looks to the totality of the circumstances. Although factors to be considered include whether an employee is free to leave and the number of interruptions during the meal-break, the most important consideration is whether employees are relieved from work for the purpose of eating a regularly scheduled meal. While the Butler County officers' meal-breaks had a number of restrictions, the meal-break did not primarily benefit the County.

The Court of Appeals emphasized that officers could request authorization to leave the premises during the period and eat lunch away from their desks. In addition, officers were covered by a collective bargaining agreement which provided that they would receive a partially-compensated mealtime and overtime if the meal period was interrupted by work. However, the existence of a collective bargaining agreement was only one factor to be considered in the predominant benefit analysis and not a defense against liability under the FLSA. The Butler County officers were not engaged primarily in work-related duties during the 15 minutes of uncompensated mealtime and therefore received the predominant benefit of the break. Thus, they were not entitled to compensation under the FLSA.

In light of this decision, employers should review and evaluate how their meal periods are handled and any meal period policies that employers may have in handbooks. If your company needs assistance in evaluating wage and hour law issues, please contact Tracy Walsh, Chair Employment Practice Group, at twalsh@wglaw.com or 215.825.7224 or Charles Starnes, Associate, at cstarnes@wglaw.com or 267.519.4976.