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California Supreme Court Clarifies Scope of Compensable "Hours Worked"

California Employment Law Update on **April 4, 2024**

On March 25, 2024, the California Supreme Court issued its opinion in *Huerta v. CSI Electrical Contractors*, Case No. S275431, providing additional guidance on compensable "hours worked" under California law. In a class action asserting wage claims on behalf of contractors at a construction site, the Supreme Court answered three questions certified by the Ninth Circuit as follows:

First, the Court held that an employee's time spent on an employer's premises awaiting and undergoing an employer-mandated exit procedure that includes a visual inspection of the employee's personal vehicle is compensable as "hours worked." The Court explained that the procedure was an on-site employer-controlled activity because workers were required to wait for and undergo the security procedure before leaving the site, compliance with the exit procedure was strictly required for every worker, and the procedure primarily served the employer's own interests of ensuring only badged workers entered and exited the site and preventing theft of tools and endangered species. Since workers were subject to the employer's control while waiting for and during the security procedure, even though they were in their personal vehicles, the time counted as "hours worked."

Second, the Court held that the time that an employee spends traveling between the security gate and the employee parking lots is compensable as "employer-mandated travel" under Wage Order No. 16 (governing the construction industry) if the security gate was the first location where the employee's presence was required for an employment-related reason other than the practical necessity of accessing the worksite. Examples of "employment-related reasons" include situations where an employee's presence at an initial location is required to pick up work supplies, receive work orders, or perform work before traveling to a second jobsite. Notably, the Court's holding regarding "employer-mandated travel" applies only to employers in the construction industry because the "employer-mandated" travel issue is specific to Wage Order No. 16.

While the time traveling between the security gate and parking lots *could be* compensable as "employer-mandated travel" time, the Court held that it is not compensable as "hours worked." For one, the employer's imposition of ordinary workplace rules (e.g., adherence to speed limits, prohibitions on smoking, loud music, and practical jokes, etc.) during worksite drive time did not create the requisite level of employer control sufficient to render the travel time compensable as "hours worked." In addition, the employee's drive on the access road was not a form of exertion that a manager would recognize as work on the site, so the drive time was not compensable as "hours worked" under a "suffered or permitted to work" theory.

Third, the Court held that when an employee is covered by a collective bargaining agreement that provides the employee with an "unpaid meal period," that time is nonetheless compensable as "hours worked" if the employer prohibits the employee from leaving the employer's premises or a designated area during the meal period and if this prohibition prevents the employee from engaging in otherwise feasible personal activities.

In light of the California Supreme Court's decision in *Huerta*, employers should review any security and screening procedures, especially regarding vehicle inspections. Employers should also review any policies restricting employee movement during unpaid meal periods or other similar off-duty time. We will continue to monitor these developments.

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