

11th Circ. Ruling Offers Guidance On Compensable Work Time

By **Lauren Swanson** (February 23, 2026, 5:05 PM EST)

The U.S. Court of Appeals for the Eleventh Circuit recently clarified the limits of compensable work time under the Fair Labor Standards Act and Florida law.

On Dec. 5, in *Villarino v. Pacesetter Personnel Service Inc.*, the Eleventh Circuit **affirmed** summary judgment in favor of a staffing agency, rejecting claims that deductions for transportation costs and unpaid time spent traveling to and from worksites, collecting tools, or waiting at a labor hall violated federal or Florida wage laws.

In doing so, the Eleventh Circuit reaffirmed the continuing strength of the Portal-to-Portal Act — which clarifies what activities are considered part of an employee's compensable workday by excluding ordinary commute time and certain preliminary and postliminary activities from hours worked — and offered practical guidance for employers in Alabama, Florida and Georgia that are navigating nontraditional work arrangements.



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Background

Pacesetter Personnel Service matches workers with employers for temporary, daily labor. Under its labor hall staffing model — which is commonly used in construction, hospitality and other industries that rely on daily labor assignments — workers gather at a labor hall, where those who receive job offers are issued tickets identifying the worksite location, start time, and any suggested or required equipment.

Workers sign a transportation agreement stating that they are responsible for arriving at the assigned worksite on time and outlining several transportation options, including personal vehicles, public transportation, company vans and carpools with co-workers. Workers who use company transportation pay a modest daily deduction, while those who drive receive per-passenger compensation.

Some assignments require tools, which workers may either bring themselves or borrow from Pacesetter. At the end of the workday, workers typically return to the labor hall, return any borrowed equipment and receive their pay.

A group of daily ticket workers challenged these practices, alleging that Pacesetter violated the FLSA and the Florida Minimum Wage Act by deducting transportation costs and failing to compensate them for time spent traveling to and from worksites, waiting at the labor hall, and collecting and returning borrowed tools.

The U.S. District Court for the Southern District of Florida granted summary judgment in favor of Pacesetter on all claims, and the workers appealed.

The Eleventh Circuit's Decision

Beginning with the transportation deductions, the Eleventh Circuit reiterated that while the FLSA prohibits employers from shifting business expenses to employees if doing so would reduce wages below the statutory minimum, the statute does not bar all deductions from wages. Rather, expenses

may not be shifted to employees when they are incurred for the employer's benefit.

Whether a deduction is permissible, therefore, turns on whether the expense primarily benefits the employer or the employee.

Applying that framework, the court examined Pacesetter's transportation agreement and the record evidence concerning how workers traveled to assigned worksites. The agreement made clear that workers were responsible for arriving at worksites on time and that they had multiple transportation options.

Testimony confirmed that Pacesetter's customers did not require the company to transport workers, and that workers were free to choose their method of transportation. The court also credited deposition testimony showing that workers understood they had transportation options and routinely exercised that choice.

Although the court acknowledged that Pacesetter benefited from offering transportation options by helping ensure a dependable and timely workforce, it rejected the argument that this incidental benefit transformed the transportation system into one designed primarily for the employer's benefit.

Drawing an analogy to optional workplace benefits, such as meals or amenities, that may make work easier or more attractive, the court emphasized that an employee's receipt of some benefit does not render an optional service a business expense that must be borne by the employer.

Accordingly, the court held that Pacesetter's transportation was an optional benefit separate from the free and clear that minimum-wage workers already received, and that Pacesetter could lawfully deduct transportation costs without violating federal or state wage laws.

Next, relying heavily on the Portal-to-Portal Act, the Eleventh Circuit rejected the workers' claims that time spent traveling to and from worksites was compensable. According to the statute, travel time is compensable only if it is an integral and indispensable part of the employees' principal activities — meaning an intrinsic element of the work that they are hired to perform.

The court explained that the Portal-to-Portal Act expressly excludes from compensation time spent traveling to and from the place where the principal work is performed.

The fact that workers must travel in order to do their jobs, or that they are required to report to Pacesetter's labor hall to receive assignments, was not enough to satisfy the integral and indispensable test. Otherwise, ordinary commuting would routinely become compensable, contrary to the statute's purpose.

Nor did the provision of transportation change the analysis. The court emphasized that ordinary commuting does not become compensable simply because an employer offers or facilitates transportation. Because the workers' travel was comparable to ordinary commuting, it was not compensable under the FLSA or Florida law.

Last, the Eleventh Circuit applied the same Portal-to-Portal Act framework to the workers' claims for time spent collecting tools and waiting at the labor hall. Because these activities are not related to travel, the relevant question was whether they were integral and indispensable to the workers' principal job duties.

The test was whether a preliminary or postliminary activity was an intrinsic element of the principal work — one that cannot be dispensed with, remitted, set aside, disregarded or neglected. The court rejected the argument that time spent collecting tools met that test. Not all jobs required tools; some tools were already provided at the jobsite, and workers were permitted to bring their own equipment.

Workers could also receive assignments without having the recommended tools. Unlike hazardous occupations requiring specialized protective gear, collecting and returning generic tools such as hard hats, gloves or safety vests was not essential to performing the work, and therefore fell outside the scope of compensable work time.

The court likewise held that waiting time at the labor hall was noncompensable, as workers were not

required to wait for company transportation and could proceed directly to worksites if they chose. They also retained discretion over when and whether to seek assignments, and testimony showed that workers used waiting time for personal activities, such as eating, resting or running errands.

Under these circumstances, waiting at the labor hall was a preliminary activity, rather than a principal job duty for which compensation was required. Accordingly, the Eleventh Circuit concluded that time spent collecting tools and waiting at the labor hall was not compensable under the FLSA or Florida law.

Employer Takeaways and Compliance Considerations

For employers operating in the Eleventh Circuit, particularly staffing agencies and others that deploy employees to varying job sites, the decision reinforces that ordinary commuting does not become compensable merely because an employer offers company-provided transportation.

At the same time, the court's analysis makes clear that the outcome depended largely on the degree of employee choice that was reflected in both Pacesetter's written agreements and its day-to-day practices. Where employees retained discretion over how to travel to assigned worksites and whether to utilize company-provided transportation or equipment, the challenged activities remained outside the scope of compensable work time.

Employers that impose more structured reporting requirements or effectively limit those choices may face a different result if their practices are challenged.

Employers should therefore evaluate whether transportation programs are structured and communicated as optional conveniences to employees, rather than operational requirements. Any written agreements should reflect that employees are responsible for arriving at assigned worksites on time using their choice of transportation.

Employers should also consider whether any policies or supervisory directives could be construed as conditioning job assignments or continued employment on participating in employer-facilitated transportation or preshift reporting procedures.

Employers likewise should review their pre- and post-shift practices, including tool distribution and requirements that employees report to a labor hall or other designated location before traveling to assigned worksites, to assess whether those activities could be viewed as integral and indispensable to employees' principal job duties.

Requirements that employees collect specialized or necessary equipment, complete mandatory tasks before or after traveling to a worksite, or remain onsite awaiting assignments may support arguments that compensable work has begun.

Maintaining flexibility for employees to bring their own equipment where feasible, minimizing required pre- or post-shift obligations, and clearly distinguishing between optional preparatory activities and mandatory job functions may help preserve the noncompensable status of preliminary and postliminary tasks.

As the Eleventh Circuit emphasized, relatively minor differences in policy language or operational realities may materially affect the compensability analysis, making periodic wage and hour audits of these practices a prudent compliance measure.

Employers should also ensure that employees acknowledge — in writing, where appropriate — the optional nature of employer-provided transportation or pre-shift reporting arrangements, as contemporaneous documentation of employee choice may prove critical in defending against compensability claims.

Conclusion

The Eleventh Circuit's decision provides meaningful guidance for employers navigating wage and hour compliance in nontraditional work arrangements.

The ruling reinforces that employers are not required to compensate every activity that occurs before or after the workday, and that optional transportation, ordinary commuting, and certain preliminary or postliminary activities do not become compensable merely because they relate to the work that employees are hired to perform.

At the same time, the decision underscores that compensability determinations remain highly fact-specific. Courts will closely examine whether employees retain meaningful choice, how policies are written and how those policies operate in practice. Small differences in policy language, operational realities or the degree of employer control can materially affect the outcome.

Employers that rely on staffing agencies, labor halls or mobile workforces should view Villarino as a road map rather than a bright-line rule. Clear agreements, consistent implementation and careful attention to how work is structured at the margins of the workday remain critical to minimizing wage and hour risk.

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