

Officers' Donning and Doffing of Their Uniforms and Gear Not Covered by the FLSA

Hinshaw Alert | 2 min read

May 17, 2010

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Police officers employed by an Arizona city contended that the employer violated the Fair Labor Standards Act (FLSA) by failing to compensate them for the time they spent donning and doffing their police uniforms and related gear (which usually included trousers, a shirt, a name tag, a clip-on or velcro tie, specified footwear, a badge, a duty belt, a service weapon, a holster, handcuffs, chemical spray, a baton, a portable radio and the optional body armor). A district court determined that because the police officers had the option of donning and doffing their uniforms and gear at home, these activities were, therefore, not compensable pursuant to the FLSA, as amended by the Portal-to-Portal Act. The police officers challenged the district court's entry of summary judgment in favor of the city. The United States Court of Appeals for the Ninth Circuit affirmed, agreeing that these activities were not compensable pursuant to the FLSA. The court concluded that donning and doffing at the employer's premises was not required by law, employer rule, or the nature of the work. Although the Ninth Circuit had previously stated that "under the FLSA employers must pay employees for all hours worked," it nevertheless concluded in this case that nothing compelled the conclusion that the donning and doffing of police uniforms and accompanying gear were compensable work activities. While employers may be required to compensate employees for the donning and doffing of certain protective gear necessary for the employees' job, there is a growing number of cases which have refused to require employers to pay employees for dressing in uniform, even where the employees change into their uniforms at the employers' place of business.

Bamonte v. City of Mesa, No. 08-16206 (9th Cir. Mar. 25, 2010)

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