

What is Considered Compensable Work Time Under the Fair Labor Standards Act?

Eleventh Circuit Clarifies the Topic in a Decision Favorable for Employers

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In a significant decision for employers—particularly those that rely on staffing agencies, labor halls, or mobile workforces—the Eleventh Circuit recently clarified important limits on what qualifies as compensable work time under the Fair Labor Standards Act (FLSA).

In *Villarino v. Pacesetter Personnel Service, Inc.*, 2025 U.S. App. LEXIS 31927 (11th Cir. Dec. 5, 2025), daily laborers claimed they were entitled to additional wages based on transportation deductions and time spent traveling to worksites, collecting tools, and waiting at a labor hall. The Eleventh Circuit rejected those claims, reinforcing that optional benefits and preliminary or postliminary activities do not automatically become compensable simply because they relate to the workday.

The decision provides practical guidance on when transportation costs may be deducted from wages and when travel time, tool collection, and waiting time fall outside the scope of compensable worktime.

Why This Case Matters

For employers using staffing agencies, labor halls, or mobile workforces, *Villarino* provides a practical framework for structuring compliant pay practices without compensating every activity that occurs before or after the workday.

The decision confirms that optional transportation, ordinary commuting, and certain preliminary or postliminary activities do not become compensable simply because they relate to the workday. At the same time, the analysis remains highly fact-specific. Small changes in policy language, employee choice, or day-to-day practices can materially affect the outcome.

The Business Model Involved in the Case

Pacesetter Personnel Service operates a labor-hall model common in construction, hospitality, and general labor industries. The workers voluntarily report to a labor hall, choose whether to accept daily assignments, and then travel to customer worksites.

The workers sign a written transportation agreement confirming that, once an assignment is accepted, it is the worker's responsibility to arrive at the jobsite on time. The agreement makes it clear that transportation is optional and provides multiple ways for workers to get to and from worksites, including their own vehicles, public transportation, company vans, or carpools. Workers who use company-provided transportation pay a small daily deduction, while drivers receive per-passenger pay.

For jobs that require tools, workers may bring their own or use basic tools provided by the company. At the end of the day, workers typically return to the labor hall, return equipment if used, and receive pay.

The workers challenged this arrangement, arguing that transportation deductions reduced their wages below the minimum wage and that travel, tool collection, and the time spent waiting should have been compensated. The Eleventh Circuit disagreed.

Transportation Deductions Did *Not* Violate Minimum Wage Laws

Under the FLSA, employers may not shift business expenses to employees if doing so reduces wages below the statutory minimum. However, the rule is not that expenses can never be deducted from wages. Instead, expenses cannot be shifted to employees only where they are “primarily for the benefit or convenience of the employer.”

In *Villarino*, transportation was an optional benefit. Workers retained meaningful choice over whether to accept assignments, whether to use company-provided transportation, and how to get to the worksite. The availability of multiple transportation options and the absence of any mandate supported treating transportation as a convenience rather than a business expense. Consequently, transportation deductions did not violate the FLSA or Florida's minimum wage laws.

Time Spent Traveling to and From Worksites Was *Not* Compensable

Time spent traveling to and from worksites is only compensable if travel itself is part of the work employees were hired to perform. In other words, the travel must be an integral and indispensable part of the job, not merely a prerequisite to getting to work.

Under the Portal-to-Portal Act amendment to the FLSA, ordinary travel time to and from the place where principal work activities are performed is not compensable. The fact that employees must travel in order to perform their jobs does not, by itself, convert travel time into compensable work time. This does not change simply because an employer offers or provides transportation or requires employees to report to a designated location.

In *Villarino*, the workers were required to arrive at worksites after voluntarily accepting assignments; however, travel itself was not part of the labor they were hired to perform. Treating that travel time as compensable would collapse the distinction the Portal-to-Portal Act draws between commuting and principal job duties.

Time Spent Collecting Tools Was *Not* Compensable

Similar to travel time, compensability of tool collection turns on whether the activity is integral and indispensable to the employee's principal work.

Pre-shift or post-shift activities may be compensable only if they are both necessary to the work and cannot be dispensed with if the employee is to perform the job. Not every activity that is helpful, convenient, or expected meets that standard.

In *Villarino*, tool collection did not qualify as indispensable. The workers could bring their own tools; not all jobs required tools, and work could still be performed without using company-provided equipment.

Unlike, for example, protective gear in hazardous occupations—where equipment is always essential for a worker to do their job—the tool collection was job-specific and optional. Because the work could still be performed without company-provided tools, tool collection did not rise to the level of compensable work time.

Time Spent Waiting at the Labor Hall Was *Not* Compensable

The same principles applied to time spent waiting at the labor hall. Like travel and tool collection, waiting time is compensable only if it is integral and indispensable to the workers' principal activities.

In *Villarino*, after receiving daily work tickets, the workers were free to proceed directly to the jobsite if they chose. Workers also retained control over whether and when to accept assignments in the first place. During any waiting time, the workers were free to use the time for their own purposes—resting, leaving the premises, or running personal errands.

Because workers were not required to remain on duty or constrained in how they used their time, waiting at the labor hall was neither part of the work they were hired to perform nor indispensable to performing it, rendering it not compensable.

Practical Takeaways for Employers

This decision reinforces several important wage-and-hour compliance principles:

- **Optional benefits are not employer business expenses.** Transportation or tools offered as a convenience rather than as a requirement may be excluded from compensable time and do not necessarily trigger minimum wage concerns.
- **Employee choice is critical.** Courts closely examine whether employees retain meaningful control over when to accept assignments, how to get to worksites, and how to use their time.
- **Not all work-related activities are compensable.** Travel, tool collection, and waiting time are compensable only if they are integral and indispensable to the work employees are hired to perform.
- **Clear agreements and consistent business practices matter.** Written agreements, particularly those addressing transportation responsibilities, play a key role in whether time is compensable.

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