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## California Supreme Court Issues Wage/Hour Decision

In July, the California Supreme Court decided the long-awaited case of ***Troester v. Starbucks Corporation***. The issue in the case was whether the employer, Starbucks, owed its employee back wages for time spent performing job related duties after “clocking out” from a shift. In a 7-0 decision, the California Supreme Court ruled in favor of the employee and against the employer.

The take away from the decision is that all time spent performing job functions must be compensated. The opinion states: “We hold that the relevant wage order and statutes do not permit application of the de minimus rule on the facts given us by the Ninth Circuit, where the employer required the employee to work ‘off the clock’ several minutes per shift.”

The opinion noted that over a 17-month period of employment the employee's unpaid time totaled approximately 12 hours and 50 minutes which, at the then minimum wage rate would have required payment of \$102.67.

Interestingly, there are two concurring opinions that had votes of three of the seven voting Supreme Court justices. The concurring opinions both noted that the idea of a “de minimus” time in between clocking out and finishing work required by the employer could be lawful in a different fact situation but was certainly not supported by the stipulated facts in the case

before the court.

What that means, to this writer, is at least two things. First, an employer must endeavor to fully account for the time required to perform all tasks, such as closing a store or other ministerial tasks at "end of shift" to be sure those essential job functions are included within the time that the employee is receiving his or her hourly wage. Second, that if there is a 15-second delay between "clocking out" and walking out of the building/office/retail store that such time might truly be non-compensable as "de minimus".

The unmistakable message from the California Supreme Court is that employers need to be certain they are fully and fairly compensating hourly wage employees for time spent doing any and all assigned tasks. It was apparent to the Court that undertaking the task of closing the store and completing certain bookkeeping functions should have been included within the time for which the employee was paid.

The impact of this decision will vary from position to position but the import is fairly clear. For example, employees who have more flexible job duties and who receive phone calls or text messages during "off the clock" times could assert wage claims for unpaid time. I would think that we can expect employee oriented law firms to file claims alleging that if an employee is providing his or her own private phone for use on company time such expense and time should be reimbursed to the employee.

The key is this: be sure to fully document all work time spent by every hourly employee. California courts are not going to be receptive to an employer who is perceived to be "stealing" 3 to 5 minutes of unpaid time per employee per shift.

If you have any questions or concerns about wage issues within your mobilehome park, RV park or business, please contact one of our Hart King senior partners referenced below.



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