



October 15, 2009

WAGE AND HOUR UPDATE

OREGON JURY FINDS THAT EMPLOYER MUST COMPENSATE WORKERS FOR DONNING AND DOFFING

On October 1, 2009, a jury in Multnomah County Oregon Circuit Court found Del Monte Fresh Produce N.A. liable for failing to compensate workers at a local plant for the time workers spent donning and doffing their uniforms and protective equipment during their shifts. The jury concluded that by requiring its minimum-wage employees to take-off and put-on uniforms “off the clock,” Del Monte had violated Oregon’s minimum wage act. The jury also found that the employer violated Oregon’s 30-minute uninterrupted meal period rule because the workers had to change in and out of their uniforms during their meal period. As many as 1,200 employees are affected by the decision.

Related to the *Del Monte* case, we also draw your attention to our November 9, 2005 [Bullard Alert](#), which discussed the United States Supreme Court decision in *IBP, Inc. v. Alvarez*, 546 US 21 (2005), another donning and doffing case. In *IBP, Inc. v. Alvarez*, the Supreme Court held that where the donning and doffing of special protective gear is integral and indispensable to an employee’s principal job activities, the continuous compensable workday begins with time spent donning special protective gear and concludes with the removal of that gear.

The *Del Monte* case should serve as a cautionary reminder to employers: where an employer requires employees to don or doff uniforms/protective gear at the place of employment, and where the donning or doffing is an integral and indispensable part of the employee’s principal duties, then the time spent doing that is compensable, unless the amount of time is *de minimis*. In contrast, where an employer permits an employee to change into uniform at home, the employer will not be required to compensate for uniform changing time (even if the employer also permits, but does not require, an employee for his/her convenience to don or doff a uniform at the place of employment).

We will continue to monitor this and other wage and hour issues important to employers.

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