

Time Spent Walking Between Changing Areas and Workstations is Compensable

In a pair of consolidated cases, the U.S. Supreme Court has held that the time employees spend walking between required protective gear changing areas and the production area as well as the time spent waiting to remove such gear is compensable time under the Fair Labor Standards Act (FLSA). Alternatively, the Court held that the time employees spend waiting to receive the protective gear before a shift begins is not compensable. *IBP, Inc. v. Alvarez and Tum v. Barber Foods, Inc.*, 546 U.S. _____ (2005).

In rendering its decision, the Court relied heavily upon its reasoning in an earlier case that the donning and doffing of specialized protective gear was compensable under the FLSA if it was “integral and indispensable” to the employee’s “principal activities.” Since walking between changing and working stations once such gear was donned, and waiting to remove it, was “integral and indispensable” to its application and removal, the Court held these activities were covered by the FLSA. However, because the Court considered waiting to be too far removed from the “principal activity” that starts the workday, it held that it was not compensable.

While these cases, which concerned the meat processing industry, may appear to be of limited application to municipalities, their scope envelops all employers who require their employees to wear specialized protective gear if those activities are “an integral and indispensable part” of the “principal activity” for which they are employed. Municipalities would be wise to review their compensation policies and practices in light of this case.

- *Garrett Baxter, Senior Associate, VLCT Municipal Assistance Center*