

Wage & Hour Defense Blog

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California District Court Confirms That Employees Need Not Be Paid For De Minimis Time

[by Michael Kun](#)

We have written frequently in this blog about the great many wage-hour class actions filed against employers doing business in California. Those lawsuits often allege that a class of employees performed work off-the-clock, and that the employees are not only entitled to compensation for that time, but to a slew of penalties that often dwarf the amount of alleged damages.

Depending on the nature of an employer's business, a plaintiff might allege that employees were not paid for the couple minutes it might take to "boot up" a computer in the morning, or for waiting to punch in their time cards. Or a plaintiff might contend that an employer has a time-rounding policy that somehow shortchanges employees by a minute or two of pay each day.

In defending these cases, employers often argue that not only must individualized inquiries be conducted to determine whether, when and how long an employee allegedly worked off-the-clock, but whether the employee was engaged in personal activities during some or all of that time. Those are issues that go to whether a class should be certified.

On the merits, employers often argue that such time is non-compensable in any event as *de minimis* time – time that is so small that it need not be compensated.

The *de minimis* doctrine has been recognized by the United States Supreme Court for decades, and a variety of decisions have held that as much as 10 minutes per day is *de minimis*, non-compensable time.

In a decision that is likely to be cited by employers defending against off-the-clock class action claims in California, United States District Court Judge Gary Feess has [granted summary judgment](#) to Starbucks in a class action lawsuit alleging that employees were entitled to be compensated for the minute or two that they may have spent locking up or engaged in other activities after they punched out. Relying upon the *de minimis* doctrine, Judge Feess held that such time is not compensable as a matter of law.



The decision is, of course, a positive development for employers who have been besieged by wage-hour class actions in California. While one would hope that plaintiffs' counsel would refrain in the future from filing suit seeking compensation for such small amounts of time, the decision should bolster employers' efforts to obtain the same result that Starbucks obtained – a confirmation that they are not required to pay employees for every moment those employees are on their premises.

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