

OUR INSIGHTS

Massachusetts Superior Court Holds That Meal Breaks Are Compensable Unless Employees Are Relieved of All Work-Related Duties

Author: Patrick M. Curran, Jr. (Boston)

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In a decision that could spell trouble for Massachusetts employers, a judge in the Superior Court's Business Litigation Session recently held that meal breaks count as "compensable working time," for which employees must be paid, unless the employee is relieved of all work-related duties during the break. In reaching that decision, the court rejected the employer's argument that the court should apply the more lenient federal standard, under which the compensability of meal breaks depends on whether the break time is spent "predominantly" for the benefit of the employer.

Background

The plaintiffs in the case—*DeVito v. Longwood Security Services, Inc.*, No. 2013-01724-BLS1 (December 23, 2016)—were security officers employed by the defendant, Longwood Security Services. Under Longwood's meal break policy, the officers were permitted to take an unpaid meal break of 30 minutes during their shifts. During the meal breaks, the officers were required to remain in uniform, were not permitted to leave their assigned sectors without permission, and were required to keep their radios on and "respond when called to." The officers claimed that Longwood's failure to compensate them for the 30-minute meal breaks, and to count that time in calculating their total weekly hours for overtime purposes, violated the Massachusetts Wage Act, Mass. G.L. c. 149, § 148, and also the Commonwealth's overtime law, Mass. G.L. c. 151, § 1A. In support of their claim, the officers pointed to two regulations issued by the Massachusetts Department of Labor Standards (MDLS)—454 CMR §§ 27.02 and 27.04(2)—which respectively define "working time" to exclude any "meal times during which an employee is relieved of all work-related duties," and provide that "[a]ll on-call time is compensable working time unless the employee is not required to be at the work site or another location, and is effectively free to use his or her time for his or her own purposes."

The Superior Court's Decision

Longwood sought to counter the officers' argument by pointing to federal court decisions applying the Fair Labor Standards Act (FLSA), which hold that whether a meal break counts as compensable time depends on whether the employee "is primarily engaged in work-related duties during" the meal break—an inquiry referred to as the "predominant benefit" test. The Superior Court refused to apply that test to the officers' claims, however, reasoning that the predominant benefit test was "unique to federal

law” and therefore inapplicable to the officers’ Massachusetts law claims. The court further explained that although the Massachusetts overtime law was “intended to be essentially identical to” the FLSA, there is “no reason to draw on FLSA interpretation” of terms when the Massachusetts statute and regulations set out in plain and unambiguous terms the legal standard to be applied. In such cases, the court concluded, it must simply apply the plain language of the Massachusetts statute or regulations—and the MDLS regulations set out in clear and unambiguous terms the test to be applied in determining whether meal breaks are compensable. Accordingly, the court held that it was bound to apply the MDLS regulation’s “relieved of all work-related duties” test in determining whether the officers’ unpaid meal breaks should have counted as compensable time.

Key Takeaways

The Superior Court’s decision in *DeVito* is noteworthy for several reasons.

First, although the decision is not binding on other courts considering the issue, it signals that courts applying Massachusetts law may be inclined to hold that meal breaks are non-compensable only if an employee is relieved of all work-related duties during a break. Accordingly, in light of the mandatory treble damages and attorneys’ fees afforded to successful plaintiffs in Wage Act cases, any further reliance on the predominant benefit test is a risky proposition for Massachusetts employers.

Second, national employers with operations in Massachusetts who choose to avoid the risks inherent in relying on the predominant benefit test for their Massachusetts employees may be unable to implement uniform pay policies applicable to all of their employees—and could cause employee relations issues by applying different standards to employees in different states—unless they choose to apply the “relieved of all work duties” standard in states that do not require it.

Third, the decision exemplifies and reinforces the high level of deference that Massachusetts courts accord the regulations and other pronouncements issued by state-level administrative agencies.

Finally, the decision demonstrates that while, as a general matter, the Commonwealth’s overtime law adheres closely to federal overtime standards, there are limits on the extent to which Massachusetts courts will follow federal law when it deviates from state overtime law and regulations.

Patrick M. Curran, Jr. (Boston)



Patrick Curran advocates for and advises employers in nearly every area of labor and employment law. He has particular expertise in the litigation and arbitration of labor and employment disputes, and has represented employers before state and federal courts and administrative agencies in a broad range of matters including the alleged violation of non-solicitation, non-competition, and confidentiality agreements, theft of trade secrets, breach of contract, breach of fiduciary duty, wrongful...
