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## **EMPLOYER NEWSLETTER**

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### **NO EMPLOYEE PAY FOR SECURITY SCREENINGS**

The Supreme Court unanimously ruled on December 9, 2014 that warehouse workers who fill orders for retail giant Amazon don't have to be paid for time waiting for and participating in mandatory security screenings at the end of their shifts. The decision in *Integrity Staffing Solutions v. Busk* is a victory for the growing number of retailers and other companies that routinely screen workers to prevent employee theft.

#### **SUMMARY OF THE CASE**

Jesse Busk and Laurie Castro, two former Amazon workers employed by Integrity, filed a lawsuit seeking pay for the time it took them to undergo the mandatory security checks at the end of each work shift. They alleged that the security screening process, including wait time, takes up to 25 minutes per day. Amazon disputed the time in question, stating the average time is closer to 90 seconds, has nothing to do with the actual work of the employee and instead is simply a logical part of the exit process for employees.

#### **ISSUES BEFORE THE COURT**

The Fair Labor Standards Act makes clear that employers must pay their employees for all time worked. For employers, the difficulty lies in defining when the compensable workday begins and ends. The Supreme Court has previously ruled that "preliminary" and "postliminary" activities which are "integral and indispensable" to the principle activity must be paid. Busk and Castro alleged that because the security screenings are mandatory and only benefits the employer, it is part of their work assignment and thus a principle activity for which they should be compensated. Integrity Staffing disagreed and argued that security screenings are neither "integral nor indispensable" to the work of the warehouse employees and has no relationship to what the employees ordinarily do on the job.

#### **COURT RULING**

The Supreme Court reversed a ruling from the 9th U.S. Circuit Court of Appeals, which said the screenings should be compensated because they were performed for the employer's benefit and were integral to the workers' jobs. Writing for the court, Justice Clarence Thomas said the screenings are not the "principal activity" which the workers are employed to perform. "Integrity Staffing did not employ its workers to undergo security screenings, but to retrieve products from warehouse shelves and package those products for shipment to Amazon customers," Thomas said. Thomas also said the security checks were not "integral and indispensable" to the employees' duties as warehouse workers. Therefore, the Court ruled that security screenings are not compensable.

## **IMPLICATIONS FOR EMPLOYERS**

The case was being watched closely by business groups worried that employers could be on the hook for billions of dollars in retroactive pay for workers seeking pay for time spent in security checks. The Supreme Court's ruling narrowed the definition of what is compensable preliminary and postliminary activities and avoided a potential flood of wage claims for employers nationwide. Despite this ruling, it is imperative that employers analyze any preliminary or postliminary activities performed by their employees to determine whether the employees should be paid. If you need help determining if your employees' preliminary or postliminary acts should be compensable, call Mr. Clark at (480) 844-0039 to discuss.

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