

When Pre- and Post-Shift Activities Constitute “Hours Worked” that Employers Must Pay For

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Employees must be compensated for the time they give to their employers. That fundamental tenet of wage-and-hour law seems to be common sense. We know that employers are generally required to compensate their employees for all hours worked, including regular working hours, overtime hours, and any additional time spent on tasks that benefit the employer. But what else may constitute hours worked? When we dig deeper into what is and is not time worked for an employer, things can get a little murky. The issue of what constitutes compensable time has been a topic of legal scrutiny, leading to various court cases that seek to clarify this aspect of labor law. One recent case that made waves in California legal circles is *Huerta vs. CSI Electrical Contractors*.

Huerta vs. CSI Electrical Contractors Clarifies What Constitutes “Hours Worked”

In *Huerta*, at the request of the Ninth Circuit, the California Supreme Court examined the question of whether California law requires employers to compensate employees for the time spent on pre- and post-shift tasks that are integral and indispensable to their principal activities. The case raised important questions about the extent of an employer's obligation to pay employees for tasks performed on their premises outside of regular working hours.

The plaintiff in the case, Fernando Huerta, worked as an electrician foreman for CSI Electrical Contractors. Huerta alleged that CSI failed to compensate him for tasks performed before and after his scheduled shifts, such as picking up and returning job materials and completing paperwork. Huerta argued that this uncompensated time spent on the employer's premises should be considered compensable work under California labor laws.

In its decision, the California Supreme Court answered three distinct questions related to the compensability of certain activities performed by employees on their employer's premises. In a nutshell, the court ruled that the time employees spend on tasks that are an integral part of their principal activities, such as setting up and cleaning up work equipment, should be considered compensable time.

First, the court determined that the time spent by employees in their personal vehicles waiting to scan an identification badge, undergoing security checks, and passing through a Security Gate is compensable as "hours worked" under Wage Order No. 16. This decision was based on the finding that these activities were integral to the employees' job duties and were performed under the employer's control.

Next, the court ruled that the time spent by employees in their personal vehicles while driving between the Security Gate and the designated parking lots, while complying with

the employer's rules, constitutes compensable "hours worked." This was also justified by the employer's control over the employees during this travel on the premises.

Finally, when employees were not allowed to leave the employer's premises but were not obligated to engage in work-related activities during designated unpaid "meal periods" as per a Collective Bargaining Agreement (CBA), the court determined that this time should also be considered compensable as "hours worked." The court emphasized that the employees' restrictions and the lack of freedom to leave the premises meant they were effectively under the employer's control.

Employer Takeaways

This decision has significant implications for employers in California, as it clarifies that certain pre- and post-shift activities may be subject to compensation, even if they are not the primary tasks for which employees were hired. Employers should take note of the *Huerta* ruling and ensure that they are accurately tracking and compensating employees for all work-related activities, including those that may have previously been overlooked as non-compensable. Underpayment of wages for even minimal amounts of time can give rise to significant liability in the form of unpaid wages, penalties, and attorney fees. Further, because these violations are typically made with regard to multiple similarly-situated employees, they are particularly vulnerable to class-action and representative action PAGA lawsuits.

Moving forward, California employers should review their policies and practices regarding employee timekeeping, task assignments, and compensation to align with the *Huerta* ruling. It is essential for employers to clearly define what constitutes compensable time, especially when it comes to activities performed before or after scheduled work hours on the employer's premises. Policies should expressly discuss when employees are expected to start and end their compensable work activities to avoid ambiguity and potential disputes. Finally, employers should make sure managers and supervisors are properly trained on how to accurately track and compensate employees for all compensable activities.

Employers with further questions regarding the *Huerta* ruling or compensable time generally should consult their legal counsel to ensure compliance with wage-and-hour laws and to implement best practices for managing compensable time effectively.