

Sungaila in SHRM on Starbucks Dispute About Worker Overtime

May 8, 2018

PRACTICES Labor and Employment, Litigation

SHRM quoted Haynes Boone Partner M.C. Sungaila, on a case argued at the California Supreme Court involving whether state law requires employers to pay workers for small tasks performed after they clock out.

Federal law treats those small, hard-to-track amounts of time as “de minimis,” and employers aren't generally likely to get in legal trouble if they don't include this time in workers' paychecks, *SHRM* [reported](#).

In *Troester v. Starbucks*, a former shift supervisor sued the coffee chain in federal court and lost a summary judgment but appealed to the 9th U.S. Circuit Court of Appeals. The appeals court asked the California Supreme Court to decide whether federal de-minimis doctrine applies to claims for unpaid wages under the California Labor Code. Arguments were May 1.

Here's an excerpt from the *SHRM* report:

The justices seemed to have two lines of questioning, according to Sungaila, an attorney with Haynes Boone in Orange County.

First, the justices focused on how employers can effectively track all time worked. The plaintiff's attorney argued that standards should change because there is better technology to track compensable time. Justice Goodwin H. Liu asked if there's an app for that.

For employers though, having to track work hours down to seconds could result in a lot of extra expenses —particularly for small businesses. Businesses would have the front-end expense of rolling out a program to track the time, and then if there are potential violations to the labor code, the business may face significant penalties and legal fees, Sungaila said.

This leads to the second line of questioning, which focused on costs and fees. The plaintiff's attorney told the justices that this case is about properly paying employees for all the time that they work. Counsel for Starbucks, however, argued that it is about penalties and fees. An employee could recover a small amount of wages that weren't captured, but a plaintiffs' attorney in a class action could recover a substantial amount of legal fees.

If the justices side with the plaintiff, it could greatly expand the number of California wage and hour class actions that are filed, Sungaila said." Also, how granular will we get in terms of time? Are we going to get down to seconds?" ...

To read the full article, click [here](#).