Meal Periods with Travel Restrictions May be Compensable

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In *Naylor v. Securiguard, Inc.*, the Fifth Circuit Court of Appeals held that an employer may be required to compensate employees for meal breaks if the employees are required to spend a significant portion of that period traveling to a required break area.

**Facts**

Securiguard employees guarded several gates to a Naval air station. During their shifts, the guards received two scheduled thirty-minute meal breaks. The guards expressed a desire to eat at their posts, but Securiguard prohibited them from doing so (out of concern that the customer would think they were shirking their security duties).

Accordingly, the guards were required to travel to designated break areas on the base. Some traveled only a few yards, while others had twelve-minute roundtrip drives to the nearest meal area.

The District Court for the Southern District of Mississippi granted Securiguard’s motion for summary judgment. It held that the FLSA requires compensation for a meal break only when an employer imposes “substantial duties or restrictions” during the designated time, and found Securiguard’s restrictions too insubstantial to make the breaks compensable.

**Rest periods, meal periods & on-call time**

On appeal, the Fifth Circuit cited to 29 C.F.R. § 785.19 for the proposition that bona fide meal periods “are not worktime,” and noted the regulations state: “Ordinarily 30 minutes or more is long enough for a bona fide meal period. A shorter period may be long enough under special conditions.”

Conversely, under 29 C.F.R. § 785.18, rest periods are “of short duration, running from 5 minutes to about 20 minutes, … promote the efficiency of the employee and … must be counted as hours worked.”

The Fifth Circuit noted that the District Court and the parties compared the restrictions imposed on Securiguard meal breaks to on-call time, in which “the critical question is whether the meal period is used predominantly or primarily for the benefit of the employer or for the benefit of the employee.”

**Sufficient time “to use the break for their own purposes”**

The Fifth Circuit affirmed summary judgment for Securiguard as to the gates where break areas were “a few yards away,” less than a minute’s drive or “across the street.”
As to the remaining gates, the Fifth Circuit reversed summary judgment for Securiguard and remanded the case because it concluded a jury could decide that, in some cases, the travel time was “a meaningful limitation on the employee’s freedom” during the meal period, and was imposed for benefit of the employer – rendering that time compensable.

The Court also stated that a jury could further conclude that the remaining time was not long enough for employees to qualify as a noncompensable meal period under FLSA.

Accordingly, employers (particularly those in the Fifth Circuit) should evaluate any restrictions imposed on employee meal-periods in light of the ruling in Naylor v. Securiguard, Inc.

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