

Donning and Doffing of Police Uniforms Not Compensable

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Since the United States Supreme Court weighed in on the issue of whether donning and doffing of clothing at the workplace constitutes "hours worked," there have been a number of interesting cases. The most recent is *United States v. Harris*, a decision coming out of the Ninth Circuit Court of Appeals with jurisdiction over Washington State. In that case, police officers of the City of Mesa, California, filed a claim under the Fair Labor Standards Act, claiming the time spent putting on and taking off their uniforms at the workplace constituted "hours worked," and was therefore compensable. The Ninth Circuit disagreed.

In doing so, the Ninth Circuit adopted a three-part analysis. First, is the donning and doffing required to be done at the workplace? Second, is the off-premise donning and doffing required by law and/or beneficial to the employer only? Third, was the lower court holding that this activity was not compensable, consistent with the federal Department of Labor rulings and legislative intent? The Court found that the City did not require the officers to put on or take off the uniforms at the workplace and therefore the donning and doffing activity was not compensable as "hours worked."

Donning and doffing cases will continue to be of interest since many employers do not have clear rules as to whether this activity is compensable, whether it is voluntary, and how much time should be expended in this activity. If policies are not clear, this activity could create significant financial exposure since adding "hours worked" at both ends of the work day triggers not only additional pay, but overtime liability as well.