



## Compliance Bulletin

# Supreme Court Denies Workers Pay for Time Spent in Security Lines

Provided by Power Kunkle HR Solutions

### Quick Facts

- The U.S. Supreme Court held that the time employees spend in security lines following their shifts may not be compensable under the FLSA.
- The Supreme Court's decision should prevent a wave of litigations brought by employees regarding security checkpoints.

Time spent by employees in security screenings falls within the Portal-to-Portal Act's exemption, and is not compensable under the FLSA.

On Dec. 9, 2014, the U.S. Supreme Court held unanimously that an employee's time spent in security screening before leaving the workplace is not an integral and indispensable part of the employee's principal activities. Therefore, this time is not compensable under the Fair Labor Standards Act (FLSA), as amended by the Portal-to-Portal Act.

### Background

In the case of *Integrity Staffing Solutions, Inc. v. Busk*, two employees brought a class action lawsuit demanding unpaid wages against Integrity Staffing Solutions, a company that provides warehouse staffing to Amazon.com. The employees alleged that they should have been paid for the time spent waiting for and undergoing security screenings—approximately 25 minutes per day—under the FLSA.

The employees also argued that screening time could have been reduced to an insignificant amount if Integrity Staffing had added more security screeners or had staggered the end time of employee shifts.

The case was initially dismissed by a Nevada district court for failure to state a claim, but the U.S. Court of Appeals for the 9th Circuit

reversed that decision. The 9th Circuit found that security screenings were for the company's benefit and were integral and indispensable to employees' principal employment activities. Therefore, the screenings were compensable under the FLSA.

### The Supreme Court's Decision

The Supreme Court agreed with Integrity Staffing Solutions and reversed the 9th Circuit's decision. In its opinion, the Supreme Court examined the meaning of the Portal-to-Portal Act, which does not require an employer to compensate an employee for activities that:

- Are preliminary or postliminary to an employee's work (the employee's principal activities); and
- Are not an integral or indispensable part of the employee's job performance.

The Supreme Court reasoned that the security screenings at issue were not the principal activity the employees were employed to perform. The employees were hired to retrieve products from warehouse shelves and package them for shipment. The Supreme Court also found that the security screenings were not integral and indispensable to the employees'



primary activities because Integrity Staffing could have eliminated the screenings altogether without impairing the employees' ability to complete their work.

Thus, the time spent by employees in security screenings falls within the Portal-to-Portal Act's exemption of preliminary and postliminary activities, and is not compensable under the FLSA.

#### Impact on Employers

The Supreme Court's decision is welcome news for many employers and is significant in a number of ways.

The Supreme Court's opinion will likely prevent a wave of litigations brought by employees regarding security checkpoints. According to a brief filed in the case, there have been 13 class-action lawsuits against companies involving more than 400,000 plaintiffs claiming millions of dollars in damages.

Moreover, observers of the Supreme Court have noted that implicit in the Court's opinion is a notion that the time spent by employees in security checks entering facilities such as airports, courts, government buildings and other private offices may also not be compensable.

Employers should review their employee's activities to assess whether they fall under the Portal-to-Portal exemption highlighted by the Supreme Court's decision.

