

Fifth Circuit Holds That Meal Breaks May Be Compensable If Employer-Mandated Transition Time Significantly Eats Into Employees' Meal Time

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The U.S. Department of Labor's regulations generally provide that employers are not required to pay employees for "bona fide" meal breaks that ordinarily last at least 30 minutes, but rest periods of short durations, running from 5 minutes to 20 minutes, must be paid and counted as hours worked for overtime purposes. In ***Naylor v. Securiguard, Inc.***, the U.S. Court of Appeals for the Fifth Circuit held that where employer mandated transition or travel time to a designated break area significantly eats into a 30-minute meal period, the break may not be a bona fide meal break, but a compensable rest period. In *Naylor*, security guards were required to travel from guard posts to designated break areas for meal periods which, in some cases, involved a 12-minute roundtrip travel time. The Fifth Circuit concluded a trial was necessary because a jury could find that preventing the employee from eating during the twelve-minute travel time is a meaningful limitation on the employee's freedom, thus resulting in a less than 30-minute meal period. The Fifth Circuit did recognize that transition time of no more than a few minutes is *de minimus* and not compensable. Employers should carefully review their meal break procedures to ensure that any transition time is truly *de minimus* or make necessary changes to their meal break procedures.

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