

# Illinois Supreme Court Rules Compensation Required for Mandatory Activities, Such as Pre-Shift Medical Screenings

The Illinois Supreme Court recently held that the Illinois Minimum Wage Law's (IMWL) overtime compensation provision does not incorporate exclusions from the federal Portal-to-Portal Act for preliminary and postliminary activities. This means that time spent in mandatory pre-shift activities must be counted as hours worked under the IMWL for purposes of minimum wage and overtime compensation.

This decision will impact how Illinois employers compensate their employees for time spent in activities such as mandatory pre-shift medical screenings. It also opens the door for employees to bring overtime class action claims if they have not been compensated for such time.

## The Federal Portal-to-Portal Act

Under the Portal-to-Portal Act, employers are generally relieved from federal minimum wage and overtime liability for pre- and post-shift activities that meet the following conditions:

- The activities are preliminary or postliminary to the "principal activity" the employee performs.
- The activities occur before or after the employee's performance of all principal activities in the workday.
- The activities are not compensable during the portion of the day when they occur under any contract, custom, or practice.

However, activities that employees perform before or after their regular hours of work are compensable if the activities are an "integral and indispensable" part of the employee's principal activities. Therefore, many wage and hour claims under the FLSA hinge on a fact-intensive analysis of whether certain pre-shift activities are sufficiently connected to the employee's principal activities to be compensable.

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But this analysis is now irrelevant in state law wage claims brought under the IMWL. As discussed below, Illinois employees can bring claims under the IMWL for uncompensated time spent on mandatory pre-shift and post-shift activities, even if such time is not compensable under the FLSA.

## Background

In *Johnson v. Amazon.com Services, LLC*, the Illinois Supreme Court addressed whether the IMWL incorporated the Portal-to-Portal Act's exclusions from compensation for employee activities that are preliminary or postliminary to their principal activities. The court held that it did not.

In *Johnson*, the plaintiffs were former employees of Amazon.com Services LLC (Amazon) that worked in Illinois warehouses, where their primary duties were moving, stacking, and loading packages. In March 2020, as part of its COVID-19 response protocol, Amazon required all hourly, nonexempt employees to undergo medical screenings before clocking into their shift. These screenings were uncompensated and took 10 to 15 minutes to complete.

The employees filed a class-action claim against Amazon, alleging violations of federal and Illinois wage laws for failing to pay the employees for the time spent in these mandatory screenings. After the federal district court dismissed the employees' claims, the U.S. Court of Appeals for the Seventh Circuit certified the case to the Illinois Supreme Court to answer whether the Portal-to Portal Act exclusions applied to the state law claims.

In deciding this issue, the Court analyzed the plain language of the IMWL and relevant portions of the administrative code. The Court noted that the Illinois Department of Labor defined "hours worked" as "all the time an employee is *required* to be on duty, or on the employer's premises, or at other prescribed places of work, and any additional time the employee is required or permitted to work for the employer." Thus, time spent for screening are "hours worked" because Amazon made participation mandatory.

## Takeaways for Illinois Employers

Illinois employers can no longer defend overtime class action claims filed under the IMWL by arguing that certain mandatory activities are unrelated to the employees' principal activities and thus are not compensable under the federal Portal-to-Portal standard. Therefore, Illinois employers should be prepared to



compensate employees for mandatory activities comparable to the COVID-19 screening process described above, including time spent in security screenings and time spent changing into required protective equipment.

If you have any questions or would like to discuss any labor relations issues, please contact Rob Driscoll, your Reinhart attorney, or another member of Reinhart's Labor and Employment Team.

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