

EMPLOYEE BELIEVES PRE-SHIFT WORK SHOULD BE OVERTIME



A woman working as a sewing manager resigned from her position and promptly sued her employers for overtime wages that she felt she was owed. The rulings from both a district court and an appeals court varied slightly, but the end result was the same. The plaintiff was hired in 2001 and promoted in 2004 at Summit Seating, a manufacturer of seating for buses, trucks and vans. She was paid on an hourly basis, her job involving various duties and managing between seven and eight employees. In 2009, the woman alleged that her bosses had violated the Fair Labor Standards Act (FLSA), which requires that employees working more than 40 hours in a work week be paid overtime. The overtime, the plaintiff claims, was a 15 to 45-minute period of time preceding her 5:00 a.m. shift. She stated that she frequently arrived early and handled numerous tasks, such as making coffee, prepping others' workstations and models for production, and checking fabric patterns. She normally clocked in upon arrival, but if she forgot, she would write the start time on her time card. She acknowledged that she came in early to avert the "hassle" of getting subordinates ready by 5:00. Her employers typically arrived at 7:00 or 8:00 a.m. and never witnessed the woman performing work during this time. In contrast, her sister (and co-worker) said in an affidavit that the plaintiff did not work before her shift, instead socializing and drinking coffee. The woman countered by claiming that other employees clocked in early and chatted with friends pre-shift, but her socializing was only around five minutes of the 15 to 45-minute window. The employee handbook required pre-approval for overtime, and the plaintiff never informed her bosses of her work prior to her shift, nor complained or otherwise reported any overtime incurred.



The district court granted summary judgment in favor of Summit Seating. It believed activities performed prior to the plaintiff's shift were "preliminary work," which is work not afforded overtime, and de minimis, which, in legal terms, is attributed to matters that the court would deem trivial. The court further noted the fact that the employee did not complain or make her employers aware of the overtime. To prove an FLSA violation, she would have to show that her bosses had "actual or constructive knowledge of her overtime work." The U.S. Court of Appeals, Seventh Circuit, disagreed about the definition of the woman's pre-shift tasks. It considered such work "integral and indispensable," as it was being performed to ensure that production would be completed on schedule. The appeals court did, however, concur that the plaintiff cannot claim overtime because Summit Seating had no way of knowing about the work performed before the woman's shift began. Her time cards are not sufficient proof of pre-shift work, as the FLSA states that employees who clock in early do not have to be paid. The plaintiff even reprimanded a subordinate for clocking in early, as it was against company policy. Accordingly, the U.S. Court of Appeals affirmed the district court's ruling.