# California Supreme Court Declines to Apply the Federal De Minimis Doctrine to Post-Shift Activities

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Last week, the California Supreme Court ruled in favor of a former Starbucks employee seeking compensation for time spent closing the store after clocking out. This decision in *Troester v. Starbucks* may limit the ability of employers to require employees to complete certain work-related tasks when they are off-the-clock.

In *Troester*, Douglas Troester, a former Starbucks employee, sued for a little over $100 he alleged to have earned closing the store during his 17-month employment. Starbucks argued that the four to ten minutes Troester spent uploading computer data and locking up the store after clocking out ought to be classified under the *de minimis* doctrine. Under this doctrine, employers need not compensate employees for trivial amounts of work that take place beyond their scheduled shifts and that are administratively difficult to track. As the California Supreme Court explained in its decision, federal courts apply the *de minimis* rule "to excuse the payment of wages for small amounts of otherwise compensable time upon a showing that the bits of time are administratively difficult to record." The trial court accepted Starbucks' argument, declaring Troester's post-shift work to be trivial and "administratively difficult to capture."

The California Supreme Court reversed. Explaining that the *de minimis* doctrine, as applied in federal courts "expressly eliminates substantial protections to employees," the Court concluded that state law, being "more protective" of employees, should win out. Because federal regulations are the floor, not the ceiling, on state labor protections, "California is free to offer greater protection," require payment for "all hours worked," and thus circumscribe the *de minimis* doctrine long favored in federal court.

Though deciding in Troester's favor, the Court opted to assess future wage and hour claims on a case by case basis and in concurring opinions, two judges signaled that the *de minimis* principle still may have some application. Though employers have little excuse for failing to compensate employees for routine tasks that are regularly performed, especially given the availability of technology that makes precise time tracking possible, "practicality and reasonableness" dictate that the *de minimis* doctrine ought to apply to certain cases, such as employees reading an email notifying them of a shift change during their off hours. "In situations like these," the judges wrote, "a

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requirement that the employer accurately account for every second spent on work tasks may well be impractical and unreasonable; if so, a claim for wages and penalties based on the employer's failure to do so would be inconsistent with California labor law."

In the aftermath of *Troester*, employers should anticipate greater scrutiny of how they calculate and record the time employees spend on the clock. To guard against liability, employers should adopt systems that more precisely track employee time and ensure that all time spent for the employer's benefit is compensated.