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### **LEGAL UPDATE | Should Employees Be Paid for Their Time Spent in Company-Provided Vehicles?**

As employer-provided rideshares and shuttles grow in popularity, employers often ask whether their employees should be paid for their time spent on company-provided transportation. A California appellate court recently affirmed a long-standing rule that, so long as the employer-provided shuttle is *optional*, the time spent on a company-provided vehicle does not count as “hours worked” and is not compensable.

In *Isreal Hernandez v. Pacific Bell Telephone Company*, Pacific Bell provided an optional “Home Dispatch Program” for employees who travel between customers’ homes to install and repair video and internet services. Importantly, the program provided employees with the option to drive a company vehicle straight home after their last visit to a customer’s residence. The employees later sued Pacific Bell for unpaid wages, alleging that their time spent in the company vehicles constituted hours worked.

California defines “hours worked” as time “during which an employee is subject to the control of an employer” and time that “an employee is suffered or permitted to work.” The employees argued that they were subject to Pacific Bell’s control as there were multiple restrictions on their use of the company vehicle (i.e., employees could only drive authorized passengers, employees could only use the company vehicle for company business). The employees also argued that they were “suffered or permitted” to work as, by driving the company vehicles, they were transporting the tools and equipment necessary for their job.

The court in *Isreal Hernandez* disagreed with the employees’ arguments and concluded that the employees were *not* owed wages for time spent in the company-provided vehicles. The court reasoned that [1] employees are not subject to the control of their employer when using an *optional* company vehicle to commute to/from work, and [2] similar to employees who carry a laptop or briefcase to/from work, carrying tools and equipment in a company vehicle did not require work or extra time and thus, did not suffer or permit the employees to work. The court’s decision is not only consistent with prior California court decisions, but also reminds employers of the importance of assessing whether company-provided transportation is “optional” or a necessity.

Questions? Contact Stokes Wagner.