

Supreme Court and Appellate Alert

May 4, 2016

If you read one thing...

- In *Corbin v. Time Warner Entertainment-Advance/Newhouse Partnership*, the Ninth Circuit held that both federal and California law permit employer to round employees' time punches to the nearest 15 minutes (or smaller increment).
- The court confirmed that analysis of a rounding claim should focus on whether the rounding is designed to even out over time (i.e., whether it is neutral on its face and as applied), and not whether it actually worked for or against an individual plaintiff in practice.



9th Circuit Approves Neutral Rounding of Time

On May 2, 2016, in *Corbin v. Time Warner Entertainment-Advance/Newhouse Partnership*, the 9th Circuit held that both federal and California law permit employers to round employees' time punches to the nearest 15 minutes (or smaller increment). As the 9th Circuit explained, even though the plaintiff showed that he was slightly "underpaid" due to rounding, the employer was entitled to summary judgment, because its rounding practice was neutral on its face and as applied.

This ruling confirms that analysis of a rounding claim should focus on whether the rounding is designed to even out over time and not whether it actually worked for or against an individual plaintiff in practice.

Facts

Defendant Time Warner-Entertainment-Advance/Newhouse Partnership ("Time Warner") rounded its employees' work time when they punched "in" and "out," to the nearest 15-minute increment. For example, a punch of 8:07 a.m. was rounded down to 8 a.m., while a punch of 8:08 a.m. was rounded up to 8:15 a.m.

Plaintiff Andre Corbin argued that this practice denied him earned wages, because it was undisputed that, over the relevant period, Corbin was paid \$15.02 less than he would be paid if Time Warner did not round his punches.

Ruling

The 9th Circuit held that federal regulations expressly permit the "nearest 15-minute" rounding practice used by Time Warner and that California law adopts that federal standard. It rejected the plaintiff's argument that demonstrating a net underpayment of \$15.02 was enough to survive summary judgment,

because “[m]andating that every employee must gain or break even” would “vitiat[e] the purpose and effectiveness of using rounding as a timekeeping method” (original emphasis).

The court also rejected Corbin’s argument that it should consider whether rounding had a disproportionate effect on his overtime hours, noting that a neutral rounding policy “allows employees to gain overtime compensation just as easily as it causes them to lose it” and finding “no reason to analyze overtime minutes any differently than regular-time minutes[.]”

Contact Information

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