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A Compliance Check Newsletter

Supreme Court Rules For Poultry Workers

On November 8, in a unanimous decision, the U.S. Supreme Court agreed with the Department of Labor and meat and poultry workers that the time employees spend walking to their job stations after donning safety gear and returning to the locker room before taking the gear off is compensable under the Fair Labor Standards Act.

The Court determined that the locker rooms where the special safety gear is donned and doffed is the relevant "place of performance" of the employees' principal activity and that walking from that place to another area within the plant immediately after the workday has commenced is compensable.

The Court specifically ruled that "any walking time that occurs after the beginning of the employee's first principal activity and before the end of the employee's last principal activity" is compensable under the Fair Labor Standards Act.

After the decision was announced, Secretary Chao stated, "Today's unanimous Supreme Court decision in *IBP v. Alvarez* and *Tum v. Barber Foods* is a tremendous victory for low-wage workers across the country and the Department of Labor. The Supreme Court vindicated the department's position that employees in meat and poultry processing plants must be paid for the time they spend walking between the place where they put on and take off protective equipment and the place where they process the meat. These private cases, in which the government filed amicus briefs, are the culmination of this Administration's initiative to compel poultry processors to pay their workers for all hours worked. We will now move ahead to assure that all affected companies pay their employees correctly."

OSHA Updates Construction eTool for Spanish-speaking Workers

A popular and important Web-based training tool has been restructured to aid Spanish-speaking construction workers. OSHA recently posted a new version of its construction eTool ([eTool de Construccion - La Prevencion De Fatalidades](#)) that will help employers and workers identify and avoid hazards that commonly cause the most serious injuries in construction including electrical, falls, struck-by and trenching. The updated version uses safety and health terms from OSHA's English-to-Spanish and Spanish-to-English

The Focus

construction dictionaries, and includes a glossary of construction safety and health terms, and topics to aid in developing and maintaining effective workplace safety and health programs.

Call-In Policies and the FMLA

In light of a recent district court decision, it may be advisable for employers to review their call-in or absence policies. In *Spraggins v. Knmaiu Fober Glass GmbH*, the U.S. District Court for the state of Alabama ruled that the employer's call-in policy may have been impractical.

FMLA regulations dealing with foreseeable leave require an employee to give 30 days notice of a need for leave. When the need for leave is unforeseeable, the employer may require notice as soon as practicable.

In *Spraggins*, the employee was terminated when he violated his employer's call-in policy. The policy stated that employees must call at least one hour before their shift begins. The employee called in 54 minutes before his shift started saying that he needed to stay home with his wife who was having complications related to her pregnancy.

The court said that if he did not know that he needed to stay home until it was nearly time to start his shift, then the employer's one-hour notice requirement would be impractical and would violate the FMLA. As the court did not know when the employee decided that he needed to stay home to care for his wife, the court continued the case until that information could be obtained.