



# Washington Supreme Court Grants Dairy Workers Overtime Pay As Fundamental Right, Raising Concerns For Agricultural Employers

Insights

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In a sweeping 5-4 opinion last week, the Washington Supreme Court held that dairy workers are entitled to overtime pay, concluding that a state statutory exemption violated the Washington State Constitution. For the previous 60 years, Washington's Minimum Wage Act (RCW 49.46.130(2)(g)) had expressly exempted agricultural workers from receiving weekly overtime premium pay for any work performed above 40 hours in a workweek. But in the November 5 decision in *Martinez-Cuevas, et al. v. DeRuyter Brothers Dairy, Inc.*, the court found that the overtime exemption impermissibly granted agricultural employers an unconstitutional privilege or immunity from paying otherwise mandatory overtime pay to these high-risk workers. What do Washington agricultural employers need to know about this decision?

## Supreme Court Decision, Explained

The dairy workers' class action suit raised concerns about their working conditions, including challenging that they were unfairly denied overtime pay despite working nine to twelve hours a day, six days a week, in hazardous conditions. The majority agreed that this treatment different from non-agricultural workers was unjustifiable.

Specifically, the court reasoned that the agricultural overtime exemption violated the state constitution's privilege and immunities clause (article I, section 12). This provides: "no law shall be passed granting to any citizen, class of citizens . . . privileges or immunities which upon the same terms shall no equally belong to all citizens." The court concluded that it is a fundamental "right of all Washington workers in dangerous industries to receive workplace health and safety protections."

It then held that Washington's legislature had "no reasonable ground" to favor agricultural employers and exclude agricultural workers from overtime laws. It noted that such laws "have a remedial purpose of protecting against the evils and dangers resulting from wages too low . . . and from long hours of work injurious to health."

The court went on to conclude that the dairy workers in this case, specifically milkers, "constitute the type of workers" who must be protected because "they worked long hours in conditions dangerous to life and deleterious to their health." The court noted that year-round dairy work is

considered some of the most hazardous nationally, with an injury rate that well exceeds other industries, and that “overtime work is particularly injurious.”

### **Takeaways: What Does This Decision Mean?**

While the court’s reasoning focused on the working hazards for non-seasonal dairy workers, its decision exposes all Washington agricultural employers to potential overtime liability. This is because the statutory exemption attacked by the court broadly encompasses many types of agricultural workers.

Washington employers need to recognize that workers who fall under that exemption include not only traditional farm workers and harvesters, but also workers who package, store, or deliver any agricultural or horticultural commodities to market. In fact, the dissenting opinion describes the majority opinion as meaning that “farm workers will now be entitled to future overtime pay,” without qualification.

Agricultural employers should expect that their employees may now argue that they are entitled to overtime pay under Washington’s constitution because of health and safety challenges presented in their work. You should immediately confer with legal counsel to determine the applicability of this ruling to their business and to mitigate any risk.

We will continue to monitor further developments, so you should ensure you are subscribed to Fisher Phillips’ alert system to gather the most up-to-date information. If you have any questions, please contact your Fisher Phillips attorney or any attorney in our Seattle office.

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