Fresh From The Oven: Appeals Court Tosses Out Rulings on Pizza-Delivery Driver Mileage Rates, Serves Several Wins for Employers

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An appeals court just ruled that pizza companies do not need to use the Internal Revenue Service's standard mileage rate when reimbursing their delivery drivers for the actual costs of using their vehicles for work. In reaching this conclusion, it rejected one-size-fits-all approaches for vehicle expense reimbursements, vacating one lower court ruling that sided with pizza companies and another that sided with delivery drivers. The decision serves up some important wins for employers, including that the proposed higher reimbursement rate will not be mandatory and that mileage claims cannot proceed on a class or collective basis. While the 6th Circuit Court of Appeal's ruling will only directly impact employers in Kentucky, Michigan, Ohio, and Tennessee, pizza companies in all locations should pay attention to developments on this issue, particularly since other appellate courts across the country also may need to weigh in on the correct reimbursement standard. We'll give you the five biggest takeaways according to the 6th Circuit.

What Happened?

Wage and hour litigation has rapidly increased nationwide over the past decade. One recent issue: the appropriate standard for evaluating minimum wage claims involving vehicle expense reimbursement for delivery drivers.

The Fair Labor Standards Act (FLSA) requires employers to pay each employee the minimum wage. According to the 6th Circuit, federal regulations further provide that if an employee is required to provide their own "tools" for work and the cost of doing so cuts into the employee's minimum or overtime wages as required by the FLSA, the employer must reimburse the employee for that cost.

In *Parker v. Battle Creek Pizza, Inc.*, pizza-delivery drivers filed a minimum wage claim under the FLSA arguing that their employers failed to adequately reimburse the costs (such as gas, service, maintenance, and other expenses) of using their own vehicles to deliver pizzas.

- The drivers argued that their employers should have reimbursed them using the Internal Revenue Service (IRS) standard-mileage rate for business deductions (roughly 67 cents per mile for 2024).

- The employers argued that using a "reasonable approximation" standard for reimbursements is sufficient, even if it does not fully reimburse a driver's actual costs.

The 6th Circuit rejected both standards. In a nutshell, the court of appeals held that there is no basis to mandate reimbursement at the IRS rate and that the application of a reasonable approximation standard would not alleviate liability to individual drivers who get paid less than the federally mandated minimum wage by under-reimbursing actual vehicle expenses. The court ultimately sent the case back to the trial courts to determine what the appropriate standard should be.

5 Key Takeaways According to the 6th Circuit

1. **You don't have to use the IRS standard mileage rate.** The court rejected the IRS standard because it "does not even purport to measure the vehicle costs of any individual employee." Since it is a nationwide average, using the IRS standard could result in overpaying some drivers and underpaying others. The court recognized that the FLSA only requires reimbursement of an employee's actual costs (to the extent it impacts minimum wage or overtime).
2. **You might want to reevaluate how you are using the reasonable approximation standard.** If your company uses the reasonable approximation method to reimburse minimum-wage drivers, it is important to ensure that the reimbursement covers the driver's actual costs, otherwise you could be liable for minimum wage violation. Consequently, you'll want to make sure that you can demonstrate that your reimbursement program reasonably calculated your driver's expenses under the court's suggested burden-shifting analysis (see takeaway #3 below). There are a number of other alternatives available as well. Contact your Fisher Phillips attorney to discuss alternative reimbursement standards.
3. **Employees bear the burden of proof.** The court suggested a burden-shifting analysis, which would require a driver to come forward with evidence of an inadequate reimbursement that causes wages to fall below the minimum wage floor. The burden then would shift to the employer to rebut the driver's evidence by demonstrating that "the reimbursement bore a demonstrable relationship to the employee's actual cost." The ultimate burden would return to the driver to prove the employer's reasoning wrong.
4. **Claims should not be collective.** Importantly, the 6th Circuit stressed that the minimum wage analysis must be done on an *individual* driver basis. The court even went so far as to state that mileage claims must be evaluated on an individual basis, "not a generalized collective one." This deals a major blow to plaintiffs litigating these cases on a class or collective basis.
5. **This isn't over yet.** The *Parker* decision is not the end of the inquiry. In fact, both *Parker* and a companion case, *Bradford v. Team Pizza*, have been sent back to the district courts for further proceedings consistent with the 6th Circuit's opinion. So stay tuned for further developments on this issue. And, as we noted above, we would not be surprised to see the issue end up before other appellate courts across the country.

Conclusion

Fisher Phillips will continue to monitor these developments and provide updates as appropriate. Make sure you are subscribed to Fisher Phillips' Insight System to get the most up-to-date information. For further information, contact your Fisher Phillips attorney, the authors of this Insight, or any member of our Wage and Hour Practice Group.

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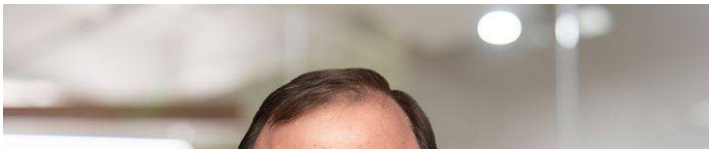

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