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STAFFING FIRMS JUST SCORED A KEY WIN ON RECOUPING EXPENSES: 7 KEY TAKEAWAYS AND PRACTICAL STEPS FOR YOUR BUSINESS

Insights
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A new federal appeals court decision just delivered welcome clarity for staffing companies that provide optional benefits and deduct the expense from employees' wages. The December 5 ruling from the 11th Circuit Court of Appeals held that a staffing agency can deduct the cost of optional job-site transportation and does not have to pay workers for travel, waiting time, or tool-pickup tasks, so long as those activities aren't part of the employee's core work. It's a solid win for staffing agencies in Florida, Georgia, and Alabama, but industry leaders across the country can also benefit from the lessons this case teaches. Here are seven key takeaways staffing companies can take from the *Villarino v. Pacesetter Personnel Service* decision, along with a list of specific action items you can put into place.

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What Happened?

The dispute began when a group of day laborers sued Florida-based Pacesetter Personnel Service, arguing that the company's long-standing transportation system violated wage-and-hour law. Pacesetter's model is not uncommon in the staffing world: workers arrive at a labor hall early in the

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morning, receive daily job assignments, and can choose whether to travel to client worksites on their own or pay \$1.50 to ride in a company-provided van.

The workers claimed that the per-trip deduction unlawfully cut into their wages. They sued the staffing company, arguing that the time they spent waiting at the hall, riding to job sites, and picking up or returning tools should all be paid. They claimed these activities were integral to their jobs and that Pacesetter benefited from controlling the transportation process.

1. Optional Expenses Can Be Deducted From Wages

The 11th Circuit disagreed. After reviewing worker testimony and the realities of the staffing model, the court held that transportation was genuinely optional, and workers had multiple ways to reach job sites (and some used those alternatives). It also held that the pre-shift logistics were not part of the core work the workers were hired to perform. Finally, the deduction did not primarily benefit the employer, even though timely arrival helped both sides.

2. Deductions Didn't Push Pay Below Minimum Wage

The workers argued the deductions dropped their pay below the minimum wage. The court disagreed, finding that these optional services can be deducted even if workers choose them regularly. A deduction is lawful, the court said, if the worker could realistically refuse the service and still perform the job. The court also said that the FLSA's anti-kickback rules weren't triggered because the transportation was not necessary for the job.

3. Travel Time Was Not "Integral and Indispensable"

The plaintiffs sought compensation for:

- Waiting for transport at the labor hall
- Riding to job sites
- Picking up and returning tools

The court held none of these activities met the "integral and indispensable" test. That's because the workers' primary job duties happened at the client site, not in transit. Travel and waiting were preliminary activities, the court said, not part of the core labor they were hired to perform.

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4. Tool Pickup and Return Are Not Automatically Paid Activities

The court held that picking up and returning tools was not integral and indispensable because these tasks were minimal and logistical, and not essential to the principal work activities in the legal sense. Minor preparatory steps remain non-compensable unless the worker cannot perform their job without them and the employer mandates the tasks.

5. Employer Benefit Alone Doesn't Make Time Compensable

The workers argued that the employer benefitted from them arriving on time. The court rejected that logic. It said that the fact that the actions were of mutual benefit to both the staffing firm and the workers did not automatically mean that there was employer-mandated control. An employer can benefit from workers' punctuality without the transportation being "primarily for the employer's benefit," the court said.

6. State Law Claims Aligned With FLSA Principles

The workers didn't succeed on their state law claims, either, because Florida's minimum wage law follows federal definitions closely. So winning the FLSA claims meant that the staffing company also won the state law claims. But for multi-state staffing agencies with operations in states that create broader employee wage and hour protections, you will need to confirm and follow the additional responsibilities you might have.

7. Written Policies Matter

The opinion repeatedly references the clarity of Pacesetter's policies and practices. The fact that Pacesetter provided documented reminders to their workers that the transportation was optional proved to be a key piece of evidence.

Action Steps for Staffing Companies

The decision creates a useful roadmap for compliance for staffing companies across the country. It provides a clear checklist for structuring pre-shift logistics, transportation, and compensation practices in a defensible way in Florida, Georgia, and Alabama – and solid guidance everywhere else. For staffing agencies that are deducting the costs of optional benefits, this decision is very helpful. That said, the

analysis is highly fact-dependent and any deductions to wages should be carefully reviewed by counsel.

Update your written policies

- Clearly state that any benefits for which a deduction to wages is sought is optional.
- Document available and realistic alternatives for the optional benefit offered.

Revisit your deduction practices

- Keep charges reasonable and cost-based.
- Ensure optional services do not function as job requirements.
- Publish any deduction amounts to ensure they're transparent and reasonable.

Audit your pre-shift processes

- Identify any tasks that might be construed as integral and indispensable.
- Eliminate unnecessary pre-shift requirements that might trigger compensable time.

Train personnel

- Reinforce that workers cannot be pressured into using employer-optional benefits (such as transportation)
- Document worker choices consistently.

Maintain strong worker acknowledgments

- Signed forms confirming optionality are invaluable if litigation arises.

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Conclusion

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