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U.S. Supreme Court Agrees To Clarify FLSA's Exemption For Donning And Doffing Time

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Koryn M. McHone
Of Counsel

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The United States Supreme Court has granted certiorari in *Sandifer v. U.S. Steel, Corp.*, No. 12-417, in order to consider what constitutes "changing clothes" under the Fair Labor Standards Act (FLSA).

The appeal was filed by a class of U.S. Steel, Corp. employees who alleged they were not paid for the time spent putting on and taking off their protective gear, in violation of the FLSA. Though not addressing all aspects of the U.S. Court of Appeals for the Seventh Circuit's dismissal of the employees' claims, the U.S. Supreme Court has agreed to provide insight as to what activities fall within the realm of "changing clothes" under Section 203(o) of the FLSA. Specifically, Section 203(o) excludes from compensable time, the employees' off-the-clock "time spent in changing clothes . . . at the beginning or end of each workday" if a collective-bargaining agreement so provides. 29 U.S.C. § 203(o).

With the evolution of the definition as to what constitutes "changing clothes" and the changing position of the United States Department of Labor as to how this term should be defined, many employers have been left in the lurch as to whether to compensate employees for certain types of activities, while employees have been left confused as to their rights under the law. Thus, this case is one to watch, as it could have wide-ranging impact on compensation in a number of industries, such as the metals and meat/poultry processing industries, where the wearing of protective gear is necessitated.

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