SANDBERG PHOENIX

EMPLOYER LAW BLOG

Eighth Circuit: Time Rounding Claim Survives Summary Judgment

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A cautionary tale for employers who use time-rounding software or practices: on August 11, 2023, the Eighth Circuit Court of Appeals issued a decision whereby it may be difficult for employers to obtain summary dismissal of time-rounding claims. The Eighth Circuit is the federal court of appeals hearing appeals in cases from Missouri, Arkansas, Nebraska, Iowa, Minnesota, North Dakota, and South Dakota.

In *Houston v. St. Luke's Health System, Inc.*, the Eighth Circuit concluded the trial court incorrectly granted St. Luke's Health System, Inc. summary judgment on workers' claims that the hospital failed to pay them for all hours worked due to impermissible time rounding.

The workers claimed that time-rounding software used by the hospital impermissibly rounded away work time recorded through the software. The trial court, however, agreed with the hospital in its arguments that the time at issue was either not that significant or that some employees either benefited or did not lose any time due to rounding.

The Eighth Circuit reversed, emphasizing that the hospital did not effectively rebut the statistical evidence that showed many (but not all) employees with long-term losses due to time rounding. The hospital tried to counter this issue by arguing that the time-rounding regulation should not be interpreted to mean that employers should have to audit their time records constantly to statistically ensure time-rounding was neutral over time.

But the Eighth Circuit did not agree. It noted federal wage and hour laws do not *require* employers to use time rounding at all; employers may do so, but under the condition that the rounding is neutral over longer periods of time.

The Eighth Circuit reasoned that the practice of time-rounding, unlike in decades prior, now involves application of technology that can exactly record time, implying that the practice is no longer necessary or justified: "[t]here is no administratively hassle at all. This is not like the old days of punch cards and hand arithmetic."

It remains to be seen how this particular case will shake out when it returns to the trial court. The Eighth Circuit noted the parties may have to "expend significant effort litigating whether all clocked hours were actually hours worked," but this is certainly no place that any employer wants to be in a wage and hour suit.

Stay tuned for more legal developments in the wage and hour space.