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### Ninth Circuit Confirms De Minimis Doctrine Applies to Overtime Claims and Reverses District Court Judgment on Boot Up and Shut Down Pay



On July 10, 2024, the United States Court of Appeals for the Ninth Circuit issued an Opinion in *Cariene Cadena v. Customer Connexx LLC* reversing the U.S. District Court for the District of Nevada’s summary judgment ruling in favor of employer Customer Connexx (Connexx), holding that triable issues of material fact remained as to whether the time claimed by its employees was de minimis.

The case involves Nevada call-center workers who allege that their employer, Connexx, violated the Fair Labor Standards Act (FLSA) by failing to pay employees overtime wages for the time spent booting up and shutting down their computers each day. The district court granted summary judgment for Connexx, finding the time was not compensable under the “de minimis” rule, which allows infrequent and insignificant periods of time outside of the scheduled working hours, which cannot as a practical matter be precisely recorded for payroll purposes, to be disregarded. Plaintiffs appealed, arguing that the de minimis rule was no longer good law after the Supreme Court of the United States decision in *Sandifer v. U.S. Steel Corp.*, 571 U.S. 220 (2014), which held that the de minimis doctrine was inapplicable to 29 U.S.C. § 203(o), a provision of the FLSA concerning time spent changing clothes or washing. The Ninth Circuit rejected plaintiffs’ argument, holding that the de minimis doctrine remained applicable for overtime wages under 29 U.S.C. § 207. In reversing the district court’s judgment, the Ninth Circuit applied the three-factor test set forth in *Lindow v. United States*, 738 F.2d 1057, 1062 (9th Cir. 1984), which analyzes: (1) the regularity of the work, (2) the aggregate amount of time at issue, and (3) the practical administrative difficulty of recording the time; and found that triable issues of material fact existed as to whether the time at issue was de minimis.

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## Authors

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