

Employer Not Liable for Employee's Failure to Report Unpaid Time

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Following prior decisions of the Eighth and Ninth Circuit Courts of Appeals, in *White v Baptist Memorial Health Care Corp.*, the Sixth Circuit Court of Appeals rejected claims brought by a former nurse seeking unpaid wages for missed and unpaid meal breaks.

Under the hospital's policy, employees working shifts of six or more hours receive an unpaid meal break that was automatically deducted from their paychecks. However, the policy also advised employees to report missed or interrupted meal breaks so that the hospital could properly compensate the employee for the additional time worked. Although White would occasionally complain to her supervisors that she never received a lunch break, she never told her supervisors or the human resource department that she was not compensated for those missed meal breaks.

The Sixth Circuit held that "if an employer establishes a reasonable process for an employee to report uncompensated work time the employer is not liable for non-payment if the employee fails to follow the established process." In so ruling, the Court rejected White's argument that the hospital should have known about the unpaid time because of her complaints to her supervisors. According to the Sixth Circuit, "When an employee fails to follow reasonable time reporting procedures she prevents the employer from knowing its obligation to compensate the employee and thwarts the employer's ability to comply with the FLSA."

What does this mean for employers?

Companies doing business within the Sixth, Eighth, and Ninth Circuits, and elsewhere, should review their pay policies to ensure that there is a reasonable reporting procedure in place for employees to report unpaid time worked and to report any failure to receive their proper compensation. Such a procedure should also provide a mechanism for investigating and remedying meritorious claims. Asking employees to acknowledge reporting policies will help protect against claims for unpaid working time. To review the Sixth Circuit Court of Appeals decision, [click here](#).

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