



1/3/08 Capital Times (Madison, WI) E1
2008 WLNR 204328

Capital Times (Madison, WI)
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January 3, 2008

Section: BUSINESS

OSCAR MAYER 'DON-DOFF' SUIT TO JURY

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A federal judge ruled Monday that a jury should decide if Oscar Mayer production workers should get paid for time spent putting on and taking off safety and sanitation equipment required by federal law and the company.

In denying Oscar Mayer's motion to dismiss the suit brought by four employees, District Judge John Shabaz concluded that "donning and doffing" the equipment at issue in the case isn't excluded from protection under the Federal Labor Standards Act.

The decision could ultimately add an estimated 15 minutes a day to worker time cards for the 1,100 production employees at the Madison plant, said the employees' attorney, Kurt **Kobelt**.

Production employees making hotdogs and cold cuts are required by federal law and subject to company discipline if they don't wear hard hats, steel-toed shoes, hair and beard nets, aprons, or a freezer coat and other safety and sanitary equipment.

Employees retrieve frocks and shoes in a locker and must put on these items and walk to their workstations where they punch a time clock. Their collective bargaining agreement doesn't specify compensation for the time spent to put on and take off the equipment.

Kraft Foods Global, Inc., which owns Oscar Mayer Foods Division, contended that except for the steel-toed shoes, hard hats and freezer frocks, the other items in the suit consisted of clothing and federal law doesn't require employees to be paid for change into such clothing.

Shabaz disagreed. Although case law has produced some conflicting decisions as to what is clothing, all the persuasive decisions involved equipment designed to protect employees from hazards at work.

"Without an explicit mandate, one would not expect that Congress intended to allow employee safety and sanitation to become a bargain chip in contract negotiations," Shabaz wrote in the 19-page decision.

Syd Lindner, a Kraft spokesperson, declined to comment on the suit but said Oscar Mayer remains a preferred employer, which values its employees and pays market-leading wages and benefits in the area.

Kobelt said the decision is important not only to the Oscar Mayer employees but other workers nationwide as the issue of what constitutes clothing or safety equipment is being widely litigated as manufacturers look to keep down labor costs.

"At one time production workers at Oscar Mayer were paid for donning and doffing but that was bargained away years ago," **Kobelt** said.

Kobelt next will seek class action status for the suit, which is scheduled for trial on July 28. If a jury finds the company violated the FLSA by not paying for donning and doffing, employees will recover for two prior years, three years if the jury finds the violations were willful, **Kobelt** said.

The United Food and Commercial Workers Union Local 538 supports the suit, but **Kobelt** was hired by the workers, **Kobelt** said.

A story last Thursday regarding a federal lawsuit involving Oscar Mayer employees seeking compensation for time spent putting on safety and sanitary equipment incorrectly attributed a ruling in the case to District Judge John Shabaz. District Judge Barbara **Crabb** issued the decision. (Published 1/9/08)

---- INDEX REFERENCES ----

COMPANY: [UNITED FOOD AND COMMERCIAL WORKERS UNION](#) LOCAL 99/CA; UNITED FOOD

NEWS SUBJECT: (Legal (1LE33); Economics & Trade (1EC26))

INDUSTRY: (Entertainment (1EN08); Celebrities (1CE65))

Language: EN

OTHER INDEXING: (FEDERAL LABOR STANDARDS; FLSA; MADISON; UNITED FOOD) (Barbara Crabb; Foods Division; John Shabaz; Kobelt; Kraft; Kraft Foods Global; Kurt Kobelt; Mayer; OSCAR MAYER; Shabaz; Syd Lindner)

KEYWORDS: MADISON FOOD EMPLOYEE LABOR LAWSUIT

EDITION: ALL

Word Count: 626
1/3/08 WICAPTIMES E1
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