

**04-66 TUM V. BARBER FOODS**

DECISION BELOW:360 F3d 274

LOWER COURT CASE NUMBER: 02-1679, 02-1739

**QUESTIONS PRESENTED:**

1. Is time employees must spend walking to and from stations where required safety equipment is distributed compensable under the Fair Labor Standards Act, as amended by the Portal-to- Portal Act? 29 U.S.C. 216(b), 254(a).
2. Do employees have a right to compensation for time they must spend waiting at required safety equipment distribution stations, and for time spent donning and doffing equipment that is necessitated by the employees' working conditions but not expressly required by the employer or by law?
3. Is this walking and waiting time rendered non-compensable merely because the associated compensable donning or doffing time is de minimis in isolation, even if the aggregate waiting, walking, donning, and doffing period is not de minimis?

CERT. GRANTED 2/22/2005

LIMITED TO QUESTION 1 PRESENTED BY THE PETITION AND THE FOLLOWING QUESTION:

"Do employees have a right to compensation for time they must spend waiting at required safety equipment distribution stations?"

CONSOLIDATED WITH 03-1238 FOR ONE HOUR ORAL ARGUMENT.