No. 132016

IN THE
SUPREME COURT OF ILLINOIS

LISA JOHNSON and GALE MILLER ANDERSON Plaintiffs-Appellants v. AMAZON.COM SERVICES LLC. Defendant-Appellee	Question of Law Certified by the United States Court of Appeals for the Seventh Circuit, No. 24-1028 There Heard on Appeal from the United States District Court for the Northern District of Illinois, Eastern Division, No. 1:23-cv-685 The Honorable The Honorable THOMAS M. DURKIN Judge Presiding

BRIEF OF AMICI CURIAE THE NATIONAL RETAIL FEDERATION, THE CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA, THE NATIONAL ASSOCIATION OF MANUFACTURERS, THE NATIONAL FEDERATION OF INDEPENDENT BUSINESS, INC., THE ILLINOIS MANUFACTURERS' ASSOCIATION, THE ILLINOIS RETAIL MERCHANTS ASSOCIATION, AND THE ILLINOIS CHAMBER OF COMMERCE IN SUPPORT OF DEFENDANT-APPELLEE

Norman Leon
norman.leon@us.dlapiper.com
(ARDC # 6239480)

DLA PIPER LLP (US)
444 West Lake Street, Suite 900
Chicago, IL 60606-0089
Telephone: 312.368.4000
Facsimile: 312.236.7516

Attorneys for *Amici Curiae*

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11/25/2025 1:04 PM
CYNTHIA A. GRANT
SUPREME COURT CLERK

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INTEREST OF *AMICI CURIAE*

Amici curiae the National Retail Federation ("NRF"), the Chamber of Commerce of the United States of America ("U.S. Chamber"), the National Association of Manufacturers ("NAM"), the National Federation of Independent Business, Inc. ("NFIB"), the Illinois Manufacturers' Association ("IMA"), the Illinois Retail Merchants Association ("IRMA"), and the Illinois Chamber of Commerce ("Illinois Chamber") (together, "Amici") submit this brief in support of Defendant-Appellee Amazon.com Services, LLC ("Amazon")[1] because this case presents an important question regarding the proper interpretation of the Illinois Minimum Wage Law ("IMWL"), 820 ILCS 105/1 *et seq*. (2024) and its implementing regulations.

The NRF is the world's largest retail trade association, representing discount and department stores, home goods and specialty stores, Main Street merchants, grocers, wholesalers, chain restaurants, and Internet retailers from the United States and more than 45 countries. Retail is the nation's largest private sector employer, supporting one in four U.S. jobs—or 55 million working Americans.[2] Contributing $5.3 trillion to annual GDP, retail is a daily barometer for the nation's economy.[3] NRF and the employers it represents therefore have a compelling interest in the question certified to this Court for decision. As the industry umbrella group, NRF periodically submits amicus curiae briefs in cases raising significant legal issues, including employment law issues, which are important to the retail industry at large, and particularly to NRF's members.

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[1] In compliance with Illinois Supreme Court Rule 341(f), this brief refers to Plaintiffs-Appellants Lisa Johnson and Gale Miller Anderson as "Plaintiffs" and refers to Defendant-Appellee Amazon.com Services LLC as "Amazon."

[2] Retails Impact | NRF (*last visited* November 5, 2025).

[3] *Id.*

The U.S. Chamber is the world's largest business federation. It represents approximately 300,000 direct members and indirectly represents the interests of millions of companies and professional organizations of every size, in every industry sector, and from every region of the country. An important function of the U.S. Chamber is to represent the interests of its members in matters before Congress, the Executive Branch, and the courts. To that end, the U.S. Chamber regularly files amicus curiae briefs in cases, like this one, that raise issues of concern to the nation's business community.[4]

The NAM is the largest manufacturing association in the United States, representing 14,000 manufacturers of all sizes, in every industrial sector and in all 50 states. Manufacturing employs nearly 13 million people across the country, contributing $2.90 trillion annually to the U.S. economy.[5] The NAM is the voice of the manufacturing community and the leading advocate for a policy agenda that helps manufacturers compete in the global economy and create jobs across the United States.[6]

The NFIB is the nation's leading small business association, representing hundreds of thousands of small and independent businesses nationwide, ranging from sole proprietorships to firms with hundreds of employees, and spanning all industries and sectors. NFIB represents, in Washington, D.C., and all 50 state capitals, the interests of its members. NFIB's mission is to promote and protect the right of its members to own, operate, and grow their businesses. As part of this mission, NFIB ensures that judges are

[4] About the U.S. Chamber of Commerce | U.S. Chamber of Commerce (*last visited* November 5, 2025).
[5] *See* Press Releases Archives - NAM (*last visited* November 5, 2025).
[6] About the NAM - NAM (*last visited* November 5, 2025).

aware of the far-reaching consequences of their decisions that affect the small business community.[7]

Founded in 1893, IMA is the oldest, and one of the largest, state manufacturing associations in the United States. The IMA represents nearly 4,000 member companies and facilities in Illinois where manufacturers employ 650,000 workers and contribute the single largest share of the state's economy. The IMA mission is to advocate, promote, and strengthen the manufacturing sector in Illinois.[8]

The IRMA is the only statewide organization exclusively representing retailers in Illinois. IRMA advocates for policies to benefit retailers at all levels of Illinois government, from the state legislature to Chicago City Hall to regulatory agencies across the state. IRMA's members operate more than 23,000 stores of all sizes and merchandise lines throughout Illinois.[9]

The Illinois Chamber has more than 1,800 members in virtually every industry. It advocates on behalf of its members to achieve an optimal business environment that enhances job creation and economic growth. It also regularly files amicus curiae briefs in cases before this Court that, like this one, raise issues of importance to the State's business community.[10]

Amici have a substantial interest in the outcome of this case to ensure their members are subject to workplace laws and regulations that are fair, practicable and predictable. The compensability of brief screenings should be rejected because such

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[7] About NFIB - NFIB (*last visited* November 5, 2025).
[8] About The IMA - Illinois Manufacturers' Association (last visited November 14, 2025).
[9] Illinois Retail Merchants Association – The Voice of Illinois Retail (last visited November 14, 2025).
[10] Amicus briefs program for Illinois Chamber members (last visited November 14, 2025).

screenings are non-compensable activities; they are not the principal activities for which employees are employed in the case at bar, but rather ancillary procedures that are neither integral nor indispensable to the employees' primary duties of moving, stacking, and loading packages. Compensability of tasks an employee is hired to perform is a critical component of the framework provided for by the IMWL and its regulations. It provides necessary clarity for businesses to operate efficiently and without having to guess what activities should and should not be compensated.

Because many of Amici's members are employers in the U.S. and Illinois, they have been and will continue to be the subject of class and collective actions, as well as those brought by individuals, involving claims that employees were not paid for time spent on an employer's premises undergoing brief screening processes. Accordingly, Amici and their members have a strong interest in whether brief screenings are compensable under the IMWL.

Assisting with the development of a regulatory environment that is both clear and in conformance with the law is a central component of Amici's respective missions. To that end, Amici advocate for the interpretation of laws in a way that fosters a fair and equitable workplace for *all*—employees *and* employers. Accordingly, Amici respectfully request the opportunity to file the enclosed amici brief for the Court's consideration. This Amici brief is intended to provide the Court with practical ramifications of the question certified for review and how the decision on that issue would impact a wide range of industries.

ARGUMENT

The IMWL should be read to incorporate the federal Portal-to-Portal Act of 1947 (PPA), which amended the Fair Labor Standards Act (FLSA) to exclude certain pre-and-post shift activities from compensable time to avoid unworkable and absurd results.

I. Illinois Courts Have Long Interpreted the IMWL and FLSA Consistently, Including Incorporating the PPA, and to Change Course Now Would Sow Chaos and Harm Employers

Illinois law has long interpreted the FLSA and the IMWL consistent with one another, including with respect to the PPA. Employers, in turn, have trusted these decades of precedent in paying employees, relying on the predictable framework that an employee's compensable working day begins with their first act that is "integral and indispensable" to their workday.

To alter course now and adopt Appellants' position that every second of time on an employer's premises must be paid—regardless of whether they are engaging in work activities—will create havoc by exposing functionally all Illinois employers to class litigation involving purported disputes over nominal increments of time in which employees simply are not working. Under Plaintiffs' analysis, employees would need to be paid for, *inter alia*, seconds spent walking from an employer's front door to the time clock at the start of their day, or even parking their car in an employer's on-site parking garage. While this may be a boon to the plaintiffs' bar, it would be a death knell to many businesses in Illinois, including the many small businesses who cannot practicably meet such rigorous or unforgiving standards, and is directly at odds with longstanding interpretation of the IMWL.

a. Authority Affirms that the IMWL and FLSA Are Interpreted Consistently, Including Regarding Preliminary and Postliminary Activities

Illinois statutes, regulations, and judicial decisions expressly contemplate—and have embraced—harmonizing the IMWL with federal wage-and-hour principles; they do not foreclose reference to the FLSA for interpretive guidance, as Plaintiffs contend. The IMWL itself underscores its parallelism with the FLSA: its overtime provision mirrors the FLSA's structure and language.[11] This congruence is not accidental; it evidences a legislative choice to align Illinois overtime entitlement with the federal regime, making federal interpretive materials naturally probative of the IMWL's scope. As recognized by the Seventh Circuit in certifying this case to this Court, the IMWL's language parallels the FLSA in many respects, including this key overtime provision, and there is "fairly strong support for Amazon's general proposition that we can and should look at federal law to interpret the scope and meaning of the IMWL." *See Johnson v. Amazon.com Servs. LLC*, 142 F.4th 932, 941 (7th Cir. 2025).

This parallelism has been recognized by recent decisions concluding that the PPA is incorporated into the IMWL. Illinois courts have expressly relied upon the PPA in determining whether pre- and post-shift activities are compensable IMWL. For instance, in a recent Circuit Court case, *Williams v. Great America, LLC*, No. 23-LA-680 (Lake Cty.,

[11] *Compare* 820 ILCS 105/4a(1) ("no employer shall employ any of his employees for a workweek of more than 40 hours unless such employee receives compensation for his employment in excess of the hours above specified at a rate not less than 1 1/2 times the regular rate at which he is employed[]"), *with* 29 U.S.C. § 207(a)(1): "no employer shall employ any of his employees… for a workweek longer than forty hours unless such employee receives compensation for his employment in excess of the hours above specified at a rate not less than one and one-half times the regular rate at which he is employed").

Hon. C. Smith), the plaintiffs made claims identical to those here, claiming that, *inter alia*, they should be paid for time undergoing pre- and post-shift security screenings when entering or exiting their employer's premises. As that court held:

> The Court has examined various components of the plaintiffs' complaint and grants the motion to dismiss as it relates to the time spent pre- and post-employment screening based upon the holding in *Integrity v. Busk*, 135 Sup. Ct. 513 (2014), the unanimous decision that held that time spent by employees waiting for and undergoing security screening before leaving the workplace was not compensable under the federal Fair Labor Standards Act.
>
> The defendants' motion to dismiss . . . as to time spent in security clearance both pre- post-work hours is granted. *Integrity* establishes the test for such screening [concerning] what the courts are to apply and determine whether the activity was integral and indispensable to the employees' duties. The activity in the case at bar is identical to the activity found not to be compensable in *Integrity* to its security screening.

Report of Proceedings at 6-7, No. 23-LA-680 (Lake Cty., May 9, 2024).[12] *Integrity*'s holding, of course, is expressly premised on the PPA and its "integral and indispensable" standard, which the *Williams* court expressly relied upon in analyzing parallel IMWL claims. *Integrity*, 135 Sup. Ct. at 517-519.

Likewise, federal courts interpreting the IMWL have routinely found that the FLSA's "integral" and "indispensable" standard applies equally to the IMWL. For instance, in *Snyder v. Univ. of Chi. Med. Ctr.*, 2025 U.S. Dist. LEXIS 30310 (N.D. Ill. Feb. 20, 2025), a Patient Transport Specialist alleged that a medical center violated the FLSA and the IMWL by failing to pay for up to 30 minutes of mandatory pre-shift COVID-19 screening and testing. On a Rule 12(b)(6) motion, the court held that the FLSA and IMWL

[12] A copy of the Report of Proceedings is attached in the appendix.

claims based on the screenings were plausibly pled because—in the healthcare context—the screenings were "integral and indispensable" to her principal job activities, giving consideration to the employee's profession (healthcare) versus other roles (e.g., warehouse and distribution center employees). *Id.* at *9 ("Snyder's principal activities involved the transportation of medical patients at a medical facility. The spread of a virus in a medical facility is different than a distribution warehouse. Further, the holding in *Johnson* relied in part on the fact that the COVID-19 screenings were not integral to warehouse work and were not 'necessary for the business to function on any given day.'"); *see also Meadows v. NCR Corp.*, No. 16 CV 6221, 2017 U.S. Dist. LEXIS 185801, at *21 n.19 (N.D. Ill. Nov. 9, 2017) ("Since the [Employee Commuting Flexibility Act ("ECFA")] applies to the FLSA, but not to the IMWL, Meadows reasons, the IMWL is stricter than the FLSA and it should govern the compensability of his commute-time claim. But, Meadows does not cite any case law to support his interpretation of the interplay between these statutes, and I find his reasoning to be inconsistent with broader precedent. Illinois courts 'have recognized that in light of their substantial similarities, provisions of the FLSA and interpretations of that legislation can be considered in applying the [IMWL].' It follows that courts may refer to the ECFA, which amends the FLSA through the PPA, in interpreting the IMWL. As such, the compensability of Meadows's pre-and post-shift activities, including his commute time, under Illinois and federal law depends on the same analysis.") (internal citations omitted). More recently, considering a different IMWL-related issue, this Court presumed the IMWL and FLSA exist in harmony, absent an indication otherwise. *See Mercado v. S&C Elec. Co.*, 2025 IL 129526, ¶ 33, 267 N.E.3d 891, 902 ("There is no indication in the

Wage Law or its attendant regulations that the Department intended for the gift exclusion to have a different meaning in the state context than in the federal context.").

Similarly, as the Seventh Circuit recognized in certifying this case to this Court, its decision in *Chagoya v. City of Chi.*, 992 F.3d 607 (7th Cir. 2021) analyzed the IMWL and FLSA claims together and held that time is compensable only if it is part of an employee's "principal activity," which includes tasks that are "integral and indispensable"—that is, "an intrinsic element of those activities and one with which the employee cannot dispense if he is to perform his principal activities." The Seventh Circuit ultimately held that an officer's off-duty transporting, loading, and unloading of equipment to and from their residence, and securing equipment inside the residence, were not compensable because they were "two steps removed from the principal activity" and because the "integral and indispensable test is tied to the productive work that the employee is employed to perform," not whether the employer required the activity. *Id.* at 610; 621-622. As *Chagoya* counsels, an activity is not integral merely because it is required; the test is whether it is an intrinsic element of the principal work. Greater efficiency or readiness "does not turn an activity into an integral and indispensable one." *Id.* at 623.

This is consistent with broader precedent at the state and federal levels holding that the FLSA and IMWL should be interpreted consistently. *See Kerbes v. Raceway Assocs., LLC*, 961 N.E.2d 865, 870 (Ill. App. Ct. 2011) (looking to FLSA caselaw when interpreting IMWL); *Haynes v. Tru-Green Corp.*, 507 N.E. 2d 945, 951 (Ill. App. Ct. 1987) ("The same analysis which applies to a violation of the FLSA applies to State law."); *Bernardi v. Vill. Of N. Pekin*, 482 N.E.2d 101, 102-04 (Ill. App. Ct. 1985) (turning to FLSA to interpret IMWL); *Mercado v. S&C Elec. Co.*, 2025 IL 129526, ¶ 33, 2025 WL 285291, at *7 (Ill. 2025)

("[t]he Department's regulations provide that federal guidance as to the meaning of the [FLSA] is probative of the meaning of the [IMWL]."); *see also Driver v. AppleIllinois, LLC*, 739 F.3d 1073, 1075 (7th Cir. 2014) (recognizing that Illinois courts, and federal courts interpreting Illinois law, seek guidance from FLSA case law when interpreting the IMWL in areas where Illinois law is silent); *Urnikis-Negro v. Am. Fam. Prop. Servs.*, 616 F.3d 665, 672 n.3 (7th Cir. 2010) ("The overtime provision of the Illinois Minimum Wage Law, 820 ILCS 105/4a (1), is parallel to that of the FLSA, and Illinois courts apply the same principles, including the FWW formula, to the state provision.").

Similarly, the Illinois Department of Labor's regulations reinforce this alignment and make explicit that federal regulations and interpretations are appropriate interpretive aids for the IMWL. The IMWL regulations incorporate FLSA authorities on specific subjects, such as regarding the compensability of travel time, which expressly references the PPA's regulations: "An employee's travel, performed for the employer's benefit . . . is compensable work time as defined in 29 CFR 785.33 – 785.41 . . . ." Ill. Admin. Code tit. 56, § 210.110. This is more than mere consistency; it is affirmative incorporation of federal standards into Illinois administrative law, reflecting a regulatory judgment that federal definitions and boundaries should guide IMWL enforcement.

Moreover, the Department of Labor's general interpretive rule removes any doubt. The regulation provides: "For guidance in the interpretation of the Act and this Part, the Director may refer to the Regulations and Interpretations of the Administrator, Wage and Hour Division, U.S. Department of Labor, administering the Fair Labor Standards Act of 1938, ***as amended*** (29 U.S.C. 201 et seq.)." Ill. Admin. Code tit. 56, § 210.120 (emphasis added). Stated otherwise, the regulations (i) expressly contemplate looking to the FLSA

for purposes of interpreting the IMWL, and (ii) include the phrase "as amended," confirming that the Department anticipated and endorsed reliance on the evolving body of federal wage-and-hour law—including amendments such as the PPA—when construing Illinois law. *See Mercado v. S&C Elec. Co.*, 2025 IL 129526, ¶ 20, 267 N.E.3d 891 (administrative rules and regulations, which have the force and effect of law, should be read "as a whole" and "not in isolation"). This regulatory text is a clear directive to look to federal guidance to interpret and enforce the IMWL.

In short, statutes, regulations, and case law all confirm that the IMWL and FLSA should be interpreted consistently.

b. Harmonizing with the FLSA Avoids Absurd Results the Illinois Supreme Court Warns Against

Core principles of statutory construction compel the conclusion that the FLSA and IMWL should be interpreted consistently. Setting aside the statutory considerations set forth above, *see* § I (a), *supra*, which affirm that the FLSA, inclusive of the PPA, is an appropriate mirror against which the IMWL should be held, it is well-settled that Illinois courts avoid readings that produce absurd or unworkable outcomes. *See People v. Hanna*, 207 Ill. 2d 486, 498, (2003) ("[W]here a plain or literal reading of a statue produces absurd results, the literal reading should yield: 'It is a familiar rule, that a thing may be within the letter of the statute and yet not within the statute, because not within its spirit, nor within the intention of its makers. If a literal construction of the words of a statute be absurd, the act must be so construed as to avoid the absurdity.'"). Plaintiffs' reading here would be an absurd result that should be avoided.

Hanna involved a dispute regarding the admissibility of certain alcohol breathalyzer tests where a state statute purported to require that the breathalyzers be tested under specific federal protocols. *Id.* at 490-91. Although this testing had not been done, evidence at trial affirmed that it was not necessary because of the manner in which the devices were stored. *Id.* at 500-01. The Supreme Court held that Illinois statutory interpretation turns on legislative intent, practical context, and the avoidance of absurdity, not hyper-literal readings divorced from function. It therefore rejected the claim that breathalyzer results must be excluded for lack of the purportedly required testing. *Id*.

So, too, here. Plaintiffs' hyper-literal reading of the IMWL requires that, absent the magic words expressly stating "the PPA is incorporated," employees must be paid for any time that they are on an employer's premises. Setting aside the sheer impossibilities that this establishes for employers from a practical perspective (*see* § I (c), *infra*), this is an absurd result to reach. In the first instance, the IMWL is nearly verbatim of the FLSA in all relevant respects regarding overtime. *See* § I (a), *supra*. Moreover, the IMWL's governing regulations expressly directs courts to look at the FLSA for interpretative guidance, making no exception for the PPA. And, of course, Illinois courts have for decades interpreted the statutes' overtime provisions consistently. We are not aware of a decision reaching the opposite conclusion. *See Mitchell v. JCG Indus., Inc.*, 745 F.3d 837, 845 (7th Cir. 2014) ("The absence of any enforcement of the interpretation advocated by the plaintiffs in this case is telling evidence of how the Illinois law is understood by Illinois judges, lawyers, and labor officials."). Departing from common-sense statutory interpretation and cross-jurisdictional uniformity is absurd. It would make similar statutory text mean different things across forums, invite forum shopping, upset reliance interests,

and convert passive on-premises time into compensable "work"—outcomes Illinois law rejects.

In short, it would be absurd to reach the conclusion that, against the great weight of authority and precedent on which employers have long relied, the FLSA and IMWL mandate different results simply because it does not have some magic words that Plaintiffs contend must be included. Plaintiffs' argument should be rejected.

c. Practical Implications Demand that the FLSA and IMWL Be Interpreted Consistently

Practical realities counsel that Plaintiffs' interpretation of the IMWL is not logical or feasible.

First, Plaintiffs' desired interpretation defies the logic inherently built into the IMWL's provision on "hours worked". Ill. Admin. Code tit. 56, § 210.110 defines employee as "any individual permitted or suffered to work by an employer." Against this definition, to be an "employee," one must be "permitted or suffered to work." Simply, to be an employee entitled to pay under the IMWL, one must be engaged in "work." One cannot divorce this from the definition of "Hours worked," located in the same regulation, which expressly applies only to an "employee" and thus anticipates that to be compensable, the employee must be "permitted or suffered to work"; by a strict reading of the statute, the mere presence of a person "on the employer's premises" is therefore insufficient absent them being "permitted or suffered to work." A contrary reading would yield arbitrary and impractical outcomes, compensating waiting, queuing, or idling on premises even when the employer has not allowed any work to occur, while also rendering the "permitted or

suffered" limitation in the statute as surplusage. This commonsense, harmonized construction gives effect to both provisions: "employee" and "hours worked".

Second, Plaintiffs' desired interpretation is not feasible because it is an attempt to expand working time under the IMWL in a manner that would subject Illinois' employers, large and—particularly—small, to onerous and unworkable requirements, exposing them to expensive and extensive litigation, often on a class wide basis. As is inevitable in these cases, the individual recoveries are small—a matter of a few alleged seconds or minutes here or there—such that there is minimal benefit to employees, but there is massive upside to the plaintiffs' bar. Simply put, these are not cases about workers' rights. Rather, they are attempts by lawyers to grab windfall payments from employers, with little to no benefit to employees, while posing serious risk to employers and their ability to operate in Illinois.

From the outset, Plaintiffs' proposal—that employees must be paid for all time that they are on an employer's premises, regardless of their work activity—creates a practical challenge to employers that is not readily solvable. Must employees be paid from the time they spend walking through the front door to their timeclock? For the seconds that it takes to punch into the timeclock? If the employer has an on-site parking lot, must the employee be paid from the time they drive into the parking lot? If the employee dawdles or stops to speak with a colleague, is that compensable time? Would employers thus be forced to install timeclocks on the outside of their shop doors?

Functionally, Plaintiffs propose a theory of strict liability for time on which an employee is on an employer's premises, which is neither practical nor feasible, particularly for Illinois' thousands of small employers who would be faced with the unworkable task of tracking every second an employee is on premises, regardless of whether they are

working. Further, Plaintiffs propose, that if an employer is unable to do this impossible task, they then should be exposed to potential class wide liability, and incredibly would have employers be already liable through the existing statutory period, notwithstanding their reliance on decades of precedent holding that the IMWL and FLSA are parallel.

Even here, the ambiguity of the time that Plaintiffs are seeking to recover is vague and unclear. Does compensable working time start when an employee undergoes a security screening, or the time walking to the screening? Does the screening time start when the employee enters the queue to be screened or actually is being screened? What even is a screening? Does it include unlocking a front door, a badge swipe to enter the premises, or even swiping into an employee parking garage? Plaintiffs' proposal is vague and would require employers, on an individual-by-individual basis, to analyze nuances of screening processes which are not practical nor universal. And because 56 Ill. Admin. Code § 210.700 requires employers to accurately record hours worked, Plaintiffs' reading would expose employers to limitless liability for not being able to comply, and penalize them for failing to divine the precise moment compensable time begins.

Adding to all of this is that employers would be forced to analyze the nuances between state and federal law if this Court interprets them to diverge, which could lead to state and federal law having diametrically opposing positions about when working time starts. This would require onerous and costly legal analysis for employers to navigate a bespoke nuance to Illinois law. Not all employers are Fortune 500 companies with access to expensive lawyers. In fact, most are not, and such a divide between federal and state requirements would sow confusion, undermine predictability, and expose those small employers to potentially significant liability and legal fees to defend claims for amounts

that, on a per-employee basis, are nominal. *See Mitchell v. JCG Indus., Inc.*, 745 F.3d 837, 845 (7th Cir. 2014) ("There is a benefit, in simplified labor relations, from a degree of convergence of federal and state law in regard to the scope of exemptions from mandatory provisions of those different bodies of law when both are applicable to the same workforce, as they are in many cases.").

The PPA provides a predictable framework for employers, as employers' obligations are tied to the performance of actual work activities—not nebulous standards about when an employee's foot may grace the employer's premises. This, in turn, promotes employee safety and security, as it encourages employers to, among other things, provide health checks during a pandemic (such as here), and to ensure that workers are not bringing weapons or intoxicants into the workplace. None of these screenings are "indispensable" to an employee's performance of their job, nor do they involve the performance of functional work, but they promote and improve the work environment. Should employee safety and security be sidestepped to avert litigation risk? Are businesses in the wrong for attempting to identify and limit threats—public health, theft, and contraband—that endanger every other employee on the floor?

A rule that creates uncertainty while punishing the adoption of common-sense protections is not a rule that advances the well-being of the workforce; it is a rule that chills prudent prevention, reduces visibility into emerging risks, and ultimately makes workplaces less safe for everyone, while needlessly exposing the employer to liability. By recognizing that brief, pre-shift and end-of-shift screenings fall outside compensable time, this Court would adopt a clear rule that protects employees and workplace safety by

preventing perverse incentives to weaken employee wellbeing—an outcome no fair reading of any statute should permit.

CONCLUSION

For these reasons, this Court should answer the certified question in the positive: the IMWL does incorporate the PPA's exclusions for compensable time.

Respectfully submitted,

/s/ Norman Leon
Norman Leon
norman.leon@us.dlapiper.com
(ARDC # 6239480)

DLA PIPER LLP (US)
444 West Lake Street, Suite 900
Chicago, IL 60606-0089
Telephone: 312.368.4000
Facsimile: 312.236.7516

Dated: November 14, 2025

Attorneys for *Amici Curiae*

CERTIFICATE OF COMPLIANCE

I certify that this brief conforms to the requirements of Rules 341(a) and (b). The length of this brief, excluding the pages contained in the Rule 341(d) cover, the Rule 341(h)(1) table of contents and statement of points and authorities, the Rule 341(c) certificate of compliance, the certificate of service, and those matters to be appended to the brief under Rule 342, is 17 pages.

/s/ Norman Leon
Norman Leon
norman.leon@us.dlapiper.com
(ARDC # 6239480)

DLA PIPER LLP (US)
444 West Lake Street, Suite 900
Chicago, IL 60606-0089
Telephone: 312.368.4000
Facsimile: 312.236.7516

Dated: November 14, 2025

Attorneys for *Amici Curiae*

APPENDIX TO THE BRIEF

STATE OF ILLINOIS

IN THE CIRCUIT COURT FOR THE 19TH JUDICIAL CIRCUIT

LAKE COUNTY

SHARITA WILLIAMS and ANGELA MATHERS on behalf of themselves and all others similarly situated,	)	
Plaintiffs,	)	
vs.	)	NO. 23 LA 680
GREAT AMERICA, LLC, and SIX FLAGS ENTERTAINMENT CORPORATION,	)	
Defendants.	)	

REPORT OF PROCEEDINGS of the hearing before the HONORABLE CHARLES SMITH on May 9th, 2024.

APPEARANCES:

RICHARD E. HAYBER,
Attorney at Law,
for the Plaintiffs.

DANIEL J. FAZIO and
GARRETT D. KENNEDY,
Attorneys at Law,
for the Defendants.

KATELYN A. BOYCE
Official Court Reporter
IL License No. 084-004876

(Whereupon, the following proceedings were held in open court, commencing at 9:31 a.m.)

THE COURT: On the case of Williams vs. Great America, would counsel for each side please identify themselves for the court reporter. We do now have a court reporter present in the courtroom.

MR. HAYBER: Good morning, Your Honor. Attorney Richard Hayber for the plaintiffs.

MR. FAZIO: Good morning, Your Honor. Daniel Fazio on behalf of the defendants, and I'm joined with my colleague, Garrett Kennedy.

THE COURT: Very well.

And we have the caption already, correct, Madam Court Reporter?

THE REPORTER: Yes, Judge. Thank you.

THE COURT: Thank you very much.

Okay. This matter comes before the Court for ruling today on motions to dismiss filed by the defendants.

As to -- Counts 1 and 2 allege violations of the Illinois Minimum Wage Law and -- in Count 1 and violation of the Illinois Minimum Wage Law and failure

to pay overtime compensation. Plaintiffs' complaint sets forth that they are seasonal employees of the defendant working as hourly food service workers; see paragraphs 11 and 12 of the complaint.

The plaintiffs allege that they have not been compensated for time spent at pre- and post-shift security clearances and walking to their assigned posts, paragraph 23. And they are asked to walk from the security entrance to their workstation, and they estimate the time to be 11 minutes, at least for the designated lead plaintiffs, paragraph 24. In total, the plaintiffs' claims are -- claim to be approximately 20 minutes per day of uncompensated time for security screening and walking to their assigned locations, paragraph 27.

The complaint does not define how long the plaintiffs' shifts are, and so I can't determine whether there's -- whether the 20 minutes they claim is in excess of 40 hours per week. The plaintiffs seek class certification of all similarly situated employees of defendants; see paragraphs 37 and 38 of the complaint.

Plaintiffs have filed -- I'm sorry. The defendants have filed a 2-615 motion to dismiss alleging that the plaintiffs are not entitled to compensation for

time entering the employer's facility, going through security screening, or time walking from security screening to their individual workstations. The nature of this dispute is well summarized in the introduction in the plaintiffs' memorandum and opposition to the defendants' motion to dismiss filed on February 27th of 2024.

Plaintiffs assert that the defendants rely on the federal Portal-to-Portal Act, an act that -- in response to the U.S. Supreme Court decision in Anderson vs. Mt. Clemens Pottery, 328 U.S. 680, but they contend that the Illinois Department of Labor has never adopted the Portal-to-Portal Act and that Illinois, therefore, requires that the plaintiffs be paid for all time they are on the defendants' premises.

Defendants respond that the Portal-to-Portal Act does apply and that the plaintiffs' position is directly contradicted by a holding of Federal Court Judge Thomas Durkin in the recently decided case of Johnson vs. Amazon.com, LLC, 2023 Westlaw 8475658, Northern District of Illinois, decided December 7th of '23. Defendants respond that the Johnson vs. Amazon case is just plain wrongly decided and -- to quote them -- and not applicable to the case before the Court;

see pages 8 and 10 -- 8 to 10 of the plaintiffs' memorandum filed on February 27th.

The standard for review of the question presented to the Court by this 615 motion is whether the allegations of the complaint construed in a light most favorable to the plaintiffs are sufficient to state a cause of action upon which relief can be granted. Henderson Square Condo Association vs. LAB Townhomes, 2015 Illinois 118139.61. The Court properly dismisses a cause of action only when it is apparent that no set of facts can be properly proven that would entitle the plaintiff to relief. Turcios, T U R C I O S, vs. DeBruler Company, 2015 Illinois Appellate -- Illinois 117962.15. Analysis of Counts 1 and 2, the defendants in their first motion to dismiss did not attack Counts 1 and 2 of plaintiffs' complaint; however, after the decision in Johnson vs. Amazon, the case -- the defendants filed a supplemental motion to dismiss attacking Counts 1 and 2 based upon the holding in Johnson.

Counts 1 and 2 both assert that the defendants violated the Illinois Minimum Wage Act for failure to pay the plaintiffs the time spent entering the park, going through security clearance, walking to their

workstation, and reversing the process at the end of their shift, that they walked back to the security, went through security again, and they want to be compensated for the walking time as well as going through security. Count 2 involves the same claims as Count 1 but adds the assertion that the defendant has failed to pay plaintiff overtime for hours worked over 40 in a week.

The Court has examined various components of the plaintiffs' complaint and grants the motion to dismiss as it relates to the time spent pre- and post-employment screening based upon the holding in Integrity vs. Busk, 135 Supreme Court 513 in 2014, the unanimous decision of the U.S. Supreme Court that held that time spent by employees waiting for and undergoing security screening before leaving the workplace was not compensable under the federal Fair Labor Standards Act.

The defendants' motion to dismiss Counts 1 and 2 as to time spent in security clearance both pre- and post-work hours is granted. Integrity establishes the test for such screening that the courts are to apply and determine whether the activity was integral and indispensable to the employees' duties. The activity in the case at bar is identical to the activity found not to be compensable in Integrity to its

security screening.

Plaintiffs argue that the holding in Integrity is based in part upon the federal Portal-to-Portal Act of 29 U.S. Code Section 254(a)(1), which is -- which was passed in response to an earlier Supreme Court case of Anderson vs. Mt. Clemens Pottery, 328 U.S. 680.

The plaintiffs assert that no legislative act of the Illinois General Assembly has ever adopted the Portal-to-Portal Act, and the regulations established by the Illinois Department of Labor arguably reject the Portal-to-Portal standard, thus Illinois employers are required to pay their employees for all hours that are spent on the premises.

The defendants' dispute is that the Illinois Department of Labor has, in fact, rejected the Portal-to-Portal Act and that the employee is only required -- and the employer is only required to compensate employees for the actual time that they are at their workstations performing the employee's essential principal activities.

The Court has looked at similar disputes and decided under Illinois law -- I've looked at other cases in Illinois to discern whether the time spent walking from the employees' entrance to the employee's

workstation is compensable under either the Illinois Minimum Wage Act or the federal Fair Labor Standards Act.

In the case of Bartoszewski vs. Village of Fox Lake, 269 Ill. App. 3d 978, Second District, 1995, the Court held that time spent by police officers and civilian employees of the police department at roll call was entitled to compensation and that the defendant village's refusal to pay them for that time violated the federal Fair Labor Standards Act. A similar holding can be found in Aiardo vs. the Village of Libertyville, 184 Ill. App. 3d 653, Second District case from 1989. The Bartoszewski case went on to hold that the 10 to 15 minutes spent in roll call to receive assignments for the day and being advised as to criminal activity and other matters that needed to be watched was subject to the federal de minimis rule.

This Court acknowledges that time spent walking to and from a workstation from the security center is distinguishable from time spent by a police officer or even a civilian employee of the police department receiving information from the prior shifts as to the occurrences in the police district.

This Court cannot rule that the plaintiffs

have failed to allege a cause of action for this time, and accordingly, the 615 motion to dismiss as to the claim for time spent walking to and from the security entrance to the job location is denied. The entire issue of overtime as alleged in Count 2 for the time walking to and from the screening is denied pending discovery as to whether the time spent getting to the employee's workstation exceeded the 40-hour threshold.

As to Counts 3, 4, and 5, in Count 3 the plaintiffs allege a violation of the Illinois Wage Payment and Collection Act, 820 ILCS 15 -- 115/4. This Court -- This count rather asserts that the defendants breached an agreement -- in quotes -- with the plaintiffs to pay the employees for time spent in security screening and walking to and from their workstation, paragraph 56 of their complaint. The defendants respond that there is no agreement to pay the employees for this time.

This dispute is similar to that found in Brand vs. Comcast, 2013 Westlaw 1499008, decided by the Federal District Court for the Northern District of Illinois. In Brand, the Court held that an employee handbook was not in agreement within the IWPCA. Here the defendants' promise to pay wages to the plaintiffs

for their work is not definitive. The Brand court noted, Thus claims for compensation under the IWPCA and -- are akin to breach of contract actions, allowing an employee claiming a promised wage has not been -- a promised wage has been withheld to require that the employer honor the contract.

Further support for the holding is found in Schneider vs. Ecolab, E C O L A B, 2015 Westlaw 1402615, which found no contract between an employer and an employee based on a handbook and that the IWPCA did not apply.

And in Dawkins vs. NR 1 Transport, 2021 Westlaw 4120586, I quote under the theory of unjust enrichment, the Court noted: Finally, the defendants argue that the plaintiff's unjust enrichment claim cannot be asserted as a stand-alone claim and must rise and fall on the fate of the plaintiff's other claims. On this point, the Court agrees. The parties' discussion of the issue focuses on where -- on the case of Cleary vs. Philip Morris, 656 Fed 3d 511 at 516 to 518, where the Seventh Circuit noted a split in Illinois cases with some courts recognizing unjust enrichment as an independent cause of action and others refusing, comparing Raintree Homes vs. the Village of Long Grove,

209 Ill. 2d 248. Here the plaintiffs had no substantive claim grounded in tort, contract, or statute; therefore, the only substantive basis for the claim is restitution to prevent unjust enrichment; that case relying on Martis, M A R T I S, vs. Grinnell Mutual Reinsurance. Unjust enrichment is not a separate cause of action that standing alone will justify an action for recovery. While the Court in Cleary did not definitively reconcile the split in case law, the Seventh Circuit has clarified its view under Illinois law that unjust enrichment is not a separate cause of action, citing Vanzant, V A N Z A N T, vs. Hill's Pet Nutrition, 934 Fed 3d 730, quoting, Rather the request for relief from -- based on unjust enrichment is tied to the fate of the corresponding statutory claim finding in accord Benson vs. Fannie May Confections Brands, 944 Fed 3d 639 at 648. Here too plaintiff's unjust enrichment claim is tied to the fate of her statutory claim and her conversion claim. It does not provide an independent basis for recovery and is, therefore, dismissed without prejudice. That's the end of the quote from the Dawkins case.

In this case, the defendant never promised to pay the plaintiffs for screening or walking time, and

the plaintiffs for a significant period of time never demanded compensation for screening or walking time. The plaintiffs have not alleged an enforceable contract between the parties, and thus the claim for compensation under the Illinois Wage Protection and Claims Act is insufficient to state a cause of action.

Count 3 is dismissed pursuant to 2-615. The Court will grant the plaintiffs 30 days to replead this count, and if the plaintiffs are of the opinion that they can state a contract between the parties, the Court -- the plaintiffs, of course, must adhere to the holding in Loyola Academy vs. S&S Roofing.

Counts 4 and 5 are claims asserted under the common law theories of unjust enrichment, Count 4, and quantum meruit, Count 5. The Court finds that the holding in Dawkins vs. NR 1 Transport previously cited is persuasive authority to grant the 615 motion as to Count 4. The case holds that there is a statutory remedy for the plaintiffs' claimed damages, thus unjust enrichment will not be an alternative theory.

Count 4 is dismissed with leave to replead within 30 days. That same result will apply to the common law theory of quantum meruit. A plaintiffs' right to recover either exists under the Illinois Wage

Protection Act or under the Illinois Minimum Wage Act or it doesn't exist at all. The plaintiffs have statutory rights recognized -- Excuse me. The plaintiffs have statutory rights regarding their claims, but those statutes grant recovery under either the theory of unjust enrichment or quantum meruit.

I would appreciate the defendants preparing an order stating that for the reasons stated on the record, the counts -- all the counts are dismissed with the exception of the claim under the Illinois Minimum Wage Act.

And I guess I'll wait to see what the discovery shows in that regard, and the defense certainly wants to see what the Seventh Circuit has to say about Judge Durkin's ruling.

With that, can the parties agree on a 218 schedule for this case? Oh, wait. We should wait -- I should wait to do that until we have the 30 days to replead, so what I'll do then is set this case for June 13th at 9:00 a.m. for status of pleadings, and that can be by Zoom.

Anything from either side?

MR. HAYBER: Your Honor, Richard Hayber for the plaintiffs. Thank you for your time.

THE COURT: You're welcome, sir. Okay.

MR. FAZIO: Your Honor, thank you very much for your considered ruling. I appreciate it.

The only I think outstanding issue that -- and I haven't had a chance to confer with plaintiffs' counsel on this, but we do have an outstanding scheduling order that was issued back in January when originally before we had moved to dismiss the first two counts, and I'm thinking it may make sense to either, like, vacate that order or maybe the parties can maybe confer and propose something because right now we have -- you know, we don't even know what the status of pleadings is, so I'm just wondering if it makes sense to vacate that existing scheduling order or at least amend that.

THE COURT: I don't want to vacate it until I have something to put in its place, and that's what I'll do on June 13th. Both sides -- I'm not going to hold you to that order, but I am going --

MR. FAZIO: Okay.

THE COURT: I would like to see whether the plaintiffs are going to replead. I doubt we're going to have a decision from the Seventh Circuit by that time, and I can't wait for them just like they won't wait for

me.

So just -- Mr. Hayber?

MR. HAYBER: What's the best way to get the transcript of this?

THE COURT: I will ask my court reporter to email you both her address, and you will make your financial arrangements with her, and she'll be happy to get you a copy of today's ruling. Okay?

MR. HAYBER: Thank you.

THE COURT: You're welcome.

And you will do that, won't you, young lady?

THE REPORTER: Yes.

THE COURT: Thank you. Okay. All right.

MR. HAYBER: A day or two probably?

THE COURT: Yeah, yeah. Well, I'm not going to commit her time as to when she'll have it typed, but she will get you her information today so you know who the court reporter is.

In fact, Mr. Fazio, why don't you wait until you get the information from my court reporter, and then you can just say for the reasons stated on the record and insert her name and court number, ID number, and put the rest of the stuff in there. Okay?

Gentlemen, thank you for your excellent

presentation. I look forward to seeing you in June. We'll keep this case moving along.

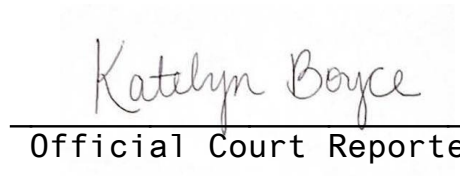
(End of proceedings.)

STATE OF ILLINOIS

IN THE CIRCUIT COURT OF THE 19TH JUDICIAL CIRCUIT

LAKE COUNTY

I, KATELYN A. BOYCE, CSR (084-004876), an Official Court Reporter for the Circuit Court of Lake County, 19th Judicial Circuit of Illinois, reported in machine shorthand the proceedings had in the hearing in the above-entitled cause and transcribed the same by Computer-Aided Transcription, which I hereby certify to be a true and accurate transcript of the proceedings had before the Honorable Charles Smith.



Official Court Reporter

Dated: This 16th day of May, 2024

No. 132016

IN THE
SUPREME COURT OF ILLINOIS

LISA JOHNSON and GALE MILLER ANDERSON Plaintiffs-Appellants v. AMAZON.COM SERVICES LLC. Defendant-Appellee	Question of Law Certified by the United States Court of Appeals for the Seventh Circuit, No. 24-1028 There Heard on Appeal from the United States District Court for the Northern District of Illinois, Eastern Division, No. 1:23-cv-685 The Honorable The Honorable THOMAS M. DURKIN Judge Presiding

BRIEF OF AMICI CURIAE THE NATIONAL RETAIL FEDERATION, THE CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA, THE NATIONAL ASSOCIATION OF MANUFACTURERS, THE NATIONAL FEDERATION OF INDEPENDENT BUSINESS, INC., THE ILLINOIS MANUFACTURERS' ASSOCIATION, THE ILLINOIS RETAIL MERCHANTS ASSOCIATION, AND THE ILLINOIS CHAMBER OF COMMERCE IN SUPPORT OF DEFENDANT-APPELLEE

Norman Leon
norman.leon@us.dlapiper.com
(ARDC # 6239480)

DLA PIPER LLP (US)
444 West Lake Street, Suite 900
Chicago, IL 60606-0089
Telephone: 312.368.4000
Facsimile: 312.236.7516

Attorneys for *Amici Curiae*

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INTEREST OF *AMICI CURIAE*

Amici curiae the National Retail Federation ("NRF"), the Chamber of Commerce of the United States of America ("U.S. Chamber"), the National Association of Manufacturers ("NAM"), the National Federation of Independent Business, Inc. ("NFIB"), the Illinois Manufacturers' Association ("IMA"), the Illinois Retail Merchants Association ("IRMA"), and the Illinois Chamber of Commerce ("Illinois Chamber") (together, "Amici") submit this brief in support of Defendant-Appellee Amazon.com Services, LLC ("Amazon")[1] because this case presents an important question regarding the proper interpretation of the Illinois Minimum Wage Law ("IMWL"), 820 ILCS 105/1 *et seq*. (2024) and its implementing regulations.

The NRF is the world's largest retail trade association, representing discount and department stores, home goods and specialty stores, Main Street merchants, grocers, wholesalers, chain restaurants, and Internet retailers from the United States and more than 45 countries. Retail is the nation's largest private sector employer, supporting one in four U.S. jobs—or 55 million working Americans.[2] Contributing $5.3 trillion to annual GDP, retail is a daily barometer for the nation's economy.[3] NRF and the employers it represents therefore have a compelling interest in the question certified to this Court for decision. As the industry umbrella group, NRF periodically submits amicus curiae briefs in cases raising significant legal issues, including employment law issues, which are important to the retail industry at large, and particularly to NRF's members.

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[1] In compliance with Illinois Supreme Court Rule 341(f), this brief refers to Plaintiffs-Appellants Lisa Johnson and Gale Miller Anderson as "Plaintiffs" and refers to Defendant-Appellee Amazon.com Services LLC as "Amazon."

[2] Retails Impact | NRF (*last visited* November 5, 2025).

[3] *Id.*

The U.S. Chamber is the world's largest business federation. It represents approximately 300,000 direct members and indirectly represents the interests of millions of companies and professional organizations of every size, in every industry sector, and from every region of the country. An important function of the U.S. Chamber is to represent the interests of its members in matters before Congress, the Executive Branch, and the courts. To that end, the U.S. Chamber regularly files amicus curiae briefs in cases, like this one, that raise issues of concern to the nation's business community.[4]

The NAM is the largest manufacturing association in the United States, representing 14,000 manufacturers of all sizes, in every industrial sector and in all 50 states. Manufacturing employs nearly 13 million people across the country, contributing $2.90 trillion annually to the U.S. economy.[5] The NAM is the voice of the manufacturing community and the leading advocate for a policy agenda that helps manufacturers compete in the global economy and create jobs across the United States.[6]

The NFIB is the nation's leading small business association, representing hundreds of thousands of small and independent businesses nationwide, ranging from sole proprietorships to firms with hundreds of employees, and spanning all industries and sectors. NFIB represents, in Washington, D.C., and all 50 state capitals, the interests of its members. NFIB's mission is to promote and protect the right of its members to own, operate, and grow their businesses. As part of this mission, NFIB ensures that judges are

[4] About the U.S. Chamber of Commerce | U.S. Chamber of Commerce (*last visited* November 5, 2025).
[5] *See* Press Releases Archives - NAM (*last visited* November 5, 2025).
[6] About the NAM - NAM (*last visited* November 5, 2025).

aware of the far-reaching consequences of their decisions that affect the small business community.[7]

Founded in 1893, IMA is the oldest, and one of the largest, state manufacturing associations in the United States. The IMA represents nearly 4,000 member companies and facilities in Illinois where manufacturers employ 650,000 workers and contribute the single largest share of the state's economy. The IMA mission is to advocate, promote, and strengthen the manufacturing sector in Illinois.[8]

The IRMA is the only statewide organization exclusively representing retailers in Illinois. IRMA advocates for policies to benefit retailers at all levels of Illinois government, from the state legislature to Chicago City Hall to regulatory agencies across the state. IRMA's members operate more than 23,000 stores of all sizes and merchandise lines throughout Illinois.[9]

The Illinois Chamber has more than 1,800 members in virtually every industry. It advocates on behalf of its members to achieve an optimal business environment that enhances job creation and economic growth. It also regularly files amicus curiae briefs in cases before this Court that, like this one, raise issues of importance to the State's business community.[10]

Amici have a substantial interest in the outcome of this case to ensure their members are subject to workplace laws and regulations that are fair, practicable and predictable. The compensability of brief screenings should be rejected because such

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[7] About NFIB - NFIB (*last visited* November 5, 2025).
[8] About The IMA - Illinois Manufacturers' Association (last visited November 14, 2025).
[9] Illinois Retail Merchants Association – The Voice of Illinois Retail (last visited November 14, 2025).
[10] Amicus briefs program for Illinois Chamber members (last visited November 14, 2025).

screenings are non-compensable activities; they are not the principal activities for which employees are employed in the case at bar, but rather ancillary procedures that are neither integral nor indispensable to the employees' primary duties of moving, stacking, and loading packages. Compensability of tasks an employee is hired to perform is a critical component of the framework provided for by the IMWL and its regulations. It provides necessary clarity for businesses to operate efficiently and without having to guess what activities should and should not be compensated.

Because many of Amici's members are employers in the U.S. and Illinois, they have been and will continue to be the subject of class and collective actions, as well as those brought by individuals, involving claims that employees were not paid for time spent on an employer's premises undergoing brief screening processes. Accordingly, Amici and their members have a strong interest in whether brief screenings are compensable under the IMWL.

Assisting with the development of a regulatory environment that is both clear and in conformance with the law is a central component of Amici's respective missions. To that end, Amici advocate for the interpretation of laws in a way that fosters a fair and equitable workplace for *all*—employees *and* employers. Accordingly, Amici respectfully request the opportunity to file the enclosed amici brief for the Court's consideration. This Amici brief is intended to provide the Court with practical ramifications of the question certified for review and how the decision on that issue would impact a wide range of industries.

ARGUMENT

The IMWL should be read to incorporate the federal Portal-to-Portal Act of 1947 (PPA), which amended the Fair Labor Standards Act (FLSA) to exclude certain pre-and-post shift activities from compensable time to avoid unworkable and absurd results.

I. Illinois Courts Have Long Interpreted the IMWL and FLSA Consistently, Including Incorporating the PPA, and to Change Course Now Would Sow Chaos and Harm Employers

Illinois law has long interpreted the FLSA and the IMWL consistent with one another, including with respect to the PPA. Employers, in turn, have trusted these decades of precedent in paying employees, relying on the predictable framework that an employee's compensable working day begins with their first act that is "integral and indispensable" to their workday.

To alter course now and adopt Appellants' position that every second of time on an employer's premises must be paid—regardless of whether they are engaging in work activities—will create havoc by exposing functionally all Illinois employers to class litigation involving purported disputes over nominal increments of time in which employees simply are not working. Under Plaintiffs' analysis, employees would need to be paid for, *inter alia*, seconds spent walking from an employer's front door to the time clock at the start of their day, or even parking their car in an employer's on-site parking garage. While this may be a boon to the plaintiffs' bar, it would be a death knell to many businesses in Illinois, including the many small businesses who cannot practicably meet such rigorous or unforgiving standards, and is directly at odds with longstanding interpretation of the IMWL.

a. Authority Affirms that the IMWL and FLSA Are Interpreted Consistently, Including Regarding Preliminary and Postliminary Activities

Illinois statutes, regulations, and judicial decisions expressly contemplate—and have embraced—harmonizing the IMWL with federal wage-and-hour principles; they do not foreclose reference to the FLSA for interpretive guidance, as Plaintiffs contend. The IMWL itself underscores its parallelism with the FLSA: its overtime provision mirrors the FLSA's structure and language.[11] This congruence is not accidental; it evidences a legislative choice to align Illinois overtime entitlement with the federal regime, making federal interpretive materials naturally probative of the IMWL's scope. As recognized by the Seventh Circuit in certifying this case to this Court, the IMWL's language parallels the FLSA in many respects, including this key overtime provision, and there is "fairly strong support for Amazon's general proposition that we can and should look at federal law to interpret the scope and meaning of the IMWL." *See Johnson v. Amazon.com Servs. LLC*, 142 F.4th 932, 941 (7th Cir. 2025).

This parallelism has been recognized by recent decisions concluding that the PPA is incorporated into the IMWL. Illinois courts have expressly relied upon the PPA in determining whether pre- and post-shift activities are compensable IMWL. For instance, in a recent Circuit Court case, *Williams v. Great America, LLC*, No. 23-LA-680 (Lake Cty.,

[11] *Compare* 820 ILCS 105/4a(1) ("no employer shall employ any of his employees for a workweek of more than 40 hours unless such employee receives compensation for his employment in excess of the hours above specified at a rate not less than 1 1/2 times the regular rate at which he is employed[]"), *with* 29 U.S.C. § 207(a)(1): "no employer shall employ any of his employees… for a workweek longer than forty hours unless such employee receives compensation for his employment in excess of the hours above specified at a rate not less than one and one-half times the regular rate at which he is employed").

Hon. C. Smith), the plaintiffs made claims identical to those here, claiming that, *inter alia*, they should be paid for time undergoing pre- and post-shift security screenings when entering or exiting their employer's premises. As that court held:

> The Court has examined various components of the plaintiffs' complaint and grants the motion to dismiss as it relates to the time spent pre- and post-employment screening based upon the holding in *Integrity v. Busk*, 135 Sup. Ct. 513 (2014), the unanimous decision that held that time spent by employees waiting for and undergoing security screening before leaving the workplace was not compensable under the federal Fair Labor Standards Act.
>
> The defendants' motion to dismiss . . . as to time spent in security clearance both pre- post-work hours is granted. *Integrity* establishes the test for such screening [concerning] what the courts are to apply and determine whether the activity was integral and indispensable to the employees' duties. The activity in the case at bar is identical to the activity found not to be compensable in *Integrity* to its security screening.

Report of Proceedings at 6-7, No. 23-LA-680 (Lake Cty., May 9, 2024).[12] *Integrity*'s holding, of course, is expressly premised on the PPA and its "integral and indispensable" standard, which the *Williams* court expressly relied upon in analyzing parallel IMWL claims. *Integrity*, 135 Sup. Ct. at 517-519.

Likewise, federal courts interpreting the IMWL have routinely found that the FLSA's "integral" and "indispensable" standard applies equally to the IMWL. For instance, in *Snyder v. Univ. of Chi. Med. Ctr.*, 2025 U.S. Dist. LEXIS 30310 (N.D. Ill. Feb. 20, 2025), a Patient Transport Specialist alleged that a medical center violated the FLSA and the IMWL by failing to pay for up to 30 minutes of mandatory pre-shift COVID-19 screening and testing. On a Rule 12(b)(6) motion, the court held that the FLSA and IMWL

[12] A copy of the Report of Proceedings is attached in the appendix.

claims based on the screenings were plausibly pled because—in the healthcare context—the screenings were "integral and indispensable" to her principal job activities, giving consideration to the employee's profession (healthcare) versus other roles (e.g., warehouse and distribution center employees). *Id.* at *9 ("Snyder's principal activities involved the transportation of medical patients at a medical facility. The spread of a virus in a medical facility is different than a distribution warehouse. Further, the holding in *Johnson* relied in part on the fact that the COVID-19 screenings were not integral to warehouse work and were not 'necessary for the business to function on any given day.'"); *see also Meadows v. NCR Corp.*, No. 16 CV 6221, 2017 U.S. Dist. LEXIS 185801, at *21 n.19 (N.D. Ill. Nov. 9, 2017) ("Since the [Employee Commuting Flexibility Act ("ECFA")] applies to the FLSA, but not to the IMWL, Meadows reasons, the IMWL is stricter than the FLSA and it should govern the compensability of his commute-time claim. But, Meadows does not cite any case law to support his interpretation of the interplay between these statutes, and I find his reasoning to be inconsistent with broader precedent. Illinois courts 'have recognized that in light of their substantial similarities, provisions of the FLSA and interpretations of that legislation can be considered in applying the [IMWL].' It follows that courts may refer to the ECFA, which amends the FLSA through the PPA, in interpreting the IMWL. As such, the compensability of Meadows's pre-and post-shift activities, including his commute time, under Illinois and federal law depends on the same analysis.") (internal citations omitted). More recently, considering a different IMWL-related issue, this Court presumed the IMWL and FLSA exist in harmony, absent an indication otherwise. *See Mercado v. S&C Elec. Co.*, 2025 IL 129526, ¶ 33, 267 N.E.3d 891, 902 ("There is no indication in the

Wage Law or its attendant regulations that the Department intended for the gift exclusion to have a different meaning in the state context than in the federal context.").

Similarly, as the Seventh Circuit recognized in certifying this case to this Court, its decision in *Chagoya v. City of Chi.*, 992 F.3d 607 (7th Cir. 2021) analyzed the IMWL and FLSA claims together and held that time is compensable only if it is part of an employee's "principal activity," which includes tasks that are "integral and indispensable"—that is, "an intrinsic element of those activities and one with which the employee cannot dispense if he is to perform his principal activities." The Seventh Circuit ultimately held that an officer's off-duty transporting, loading, and unloading of equipment to and from their residence, and securing equipment inside the residence, were not compensable because they were "two steps removed from the principal activity" and because the "integral and indispensable test is tied to the productive work that the employee is employed to perform," not whether the employer required the activity. *Id.* at 610; 621-622. As *Chagoya* counsels, an activity is not integral merely because it is required; the test is whether it is an intrinsic element of the principal work. Greater efficiency or readiness "does not turn an activity into an integral and indispensable one." *Id.* at 623.

This is consistent with broader precedent at the state and federal levels holding that the FLSA and IMWL should be interpreted consistently. *See Kerbes v. Raceway Assocs., LLC*, 961 N.E.2d 865, 870 (Ill. App. Ct. 2011) (looking to FLSA caselaw when interpreting IMWL); *Haynes v. Tru-Green Corp.*, 507 N.E. 2d 945, 951 (Ill. App. Ct. 1987) ("The same analysis which applies to a violation of the FLSA applies to State law."); *Bernardi v. Vill. Of N. Pekin*, 482 N.E.2d 101, 102-04 (Ill. App. Ct. 1985) (turning to FLSA to interpret IMWL); *Mercado v. S&C Elec. Co.*, 2025 IL 129526, ¶ 33, 2025 WL 285291, at *7 (Ill. 2025)

("[t]he Department's regulations provide that federal guidance as to the meaning of the [FLSA] is probative of the meaning of the [IMWL]."); *see also Driver v. AppleIllinois, LLC*, 739 F.3d 1073, 1075 (7th Cir. 2014) (recognizing that Illinois courts, and federal courts interpreting Illinois law, seek guidance from FLSA case law when interpreting the IMWL in areas where Illinois law is silent); *Urnikis-Negro v. Am. Fam. Prop. Servs.*, 616 F.3d 665, 672 n.3 (7th Cir. 2010) ("The overtime provision of the Illinois Minimum Wage Law, 820 ILCS 105/4a (1), is parallel to that of the FLSA, and Illinois courts apply the same principles, including the FWW formula, to the state provision.").

Similarly, the Illinois Department of Labor's regulations reinforce this alignment and make explicit that federal regulations and interpretations are appropriate interpretive aids for the IMWL. The IMWL regulations incorporate FLSA authorities on specific subjects, such as regarding the compensability of travel time, which expressly references the PPA's regulations: "An employee's travel, performed for the employer's benefit . . . is compensable work time as defined in 29 CFR 785.33 – 785.41 . . . ." Ill. Admin. Code tit. 56, § 210.110. This is more than mere consistency; it is affirmative incorporation of federal standards into Illinois administrative law, reflecting a regulatory judgment that federal definitions and boundaries should guide IMWL enforcement.

Moreover, the Department of Labor's general interpretive rule removes any doubt. The regulation provides: "For guidance in the interpretation of the Act and this Part, the Director may refer to the Regulations and Interpretations of the Administrator, Wage and Hour Division, U.S. Department of Labor, administering the Fair Labor Standards Act of 1938, ***as amended*** (29 U.S.C. 201 et seq.)." Ill. Admin. Code tit. 56, § 210.120 (emphasis added). Stated otherwise, the regulations (i) expressly contemplate looking to the FLSA

for purposes of interpreting the IMWL, and (ii) include the phrase "as amended," confirming that the Department anticipated and endorsed reliance on the evolving body of federal wage-and-hour law—including amendments such as the PPA—when construing Illinois law. *See Mercado v. S&C Elec. Co.*, 2025 IL 129526, ¶ 20, 267 N.E.3d 891 (administrative rules and regulations, which have the force and effect of law, should be read "as a whole" and "not in isolation"). This regulatory text is a clear directive to look to federal guidance to interpret and enforce the IMWL.

In short, statutes, regulations, and case law all confirm that the IMWL and FLSA should be interpreted consistently.

b. Harmonizing with the FLSA Avoids Absurd Results the Illinois Supreme Court Warns Against

Core principles of statutory construction compel the conclusion that the FLSA and IMWL should be interpreted consistently. Setting aside the statutory considerations set forth above, *see* § I (a), *supra*, which affirm that the FLSA, inclusive of the PPA, is an appropriate mirror against which the IMWL should be held, it is well-settled that Illinois courts avoid readings that produce absurd or unworkable outcomes. *See People v. Hanna*, 207 Ill. 2d 486, 498, (2003) ("[W]here a plain or literal reading of a statue produces absurd results, the literal reading should yield: 'It is a familiar rule, that a thing may be within the letter of the statute and yet not within the statute, because not within its spirit, nor within the intention of its makers. If a literal construction of the words of a statute be absurd, the act must be so construed as to avoid the absurdity.'"). Plaintiffs' reading here would be an absurd result that should be avoided.

Hanna involved a dispute regarding the admissibility of certain alcohol breathalyzer tests where a state statute purported to require that the breathalyzers be tested under specific federal protocols. *Id.* at 490-91. Although this testing had not been done, evidence at trial affirmed that it was not necessary because of the manner in which the devices were stored. *Id.* at 500-01. The Supreme Court held that Illinois statutory interpretation turns on legislative intent, practical context, and the avoidance of absurdity, not hyper-literal readings divorced from function. It therefore rejected the claim that breathalyzer results must be excluded for lack of the purportedly required testing. *Id*.

So, too, here. Plaintiffs' hyper-literal reading of the IMWL requires that, absent the magic words expressly stating "the PPA is incorporated," employees must be paid for any time that they are on an employer's premises. Setting aside the sheer impossibilities that this establishes for employers from a practical perspective (*see* § I (c), *infra*), this is an absurd result to reach. In the first instance, the IMWL is nearly verbatim of the FLSA in all relevant respects regarding overtime. *See* § I (a), *supra*. Moreover, the IMWL's governing regulations expressly directs courts to look at the FLSA for interpretative guidance, making no exception for the PPA. And, of course, Illinois courts have for decades interpreted the statutes' overtime provisions consistently. We are not aware of a decision reaching the opposite conclusion. *See Mitchell v. JCG Indus., Inc.*, 745 F.3d 837, 845 (7th Cir. 2014) ("The absence of any enforcement of the interpretation advocated by the plaintiffs in this case is telling evidence of how the Illinois law is understood by Illinois judges, lawyers, and labor officials."). Departing from common-sense statutory interpretation and cross-jurisdictional uniformity is absurd. It would make similar statutory text mean different things across forums, invite forum shopping, upset reliance interests,

and convert passive on-premises time into compensable "work"—outcomes Illinois law rejects.

In short, it would be absurd to reach the conclusion that, against the great weight of authority and precedent on which employers have long relied, the FLSA and IMWL mandate different results simply because it does not have some magic words that Plaintiffs contend must be included. Plaintiffs' argument should be rejected.

c. Practical Implications Demand that the FLSA and IMWL Be Interpreted Consistently

Practical realities counsel that Plaintiffs' interpretation of the IMWL is not logical or feasible.

First, Plaintiffs' desired interpretation defies the logic inherently built into the IMWL's provision on "hours worked". Ill. Admin. Code tit. 56, § 210.110 defines employee as "any individual permitted or suffered to work by an employer." Against this definition, to be an "employee," one must be "permitted or suffered to work." Simply, to be an employee entitled to pay under the IMWL, one must be engaged in "work." One cannot divorce this from the definition of "Hours worked," located in the same regulation, which expressly applies only to an "employee" and thus anticipates that to be compensable, the employee must be "permitted or suffered to work"; by a strict reading of the statute, the mere presence of a person "on the employer's premises" is therefore insufficient absent them being "permitted or suffered to work." A contrary reading would yield arbitrary and impractical outcomes, compensating waiting, queuing, or idling on premises even when the employer has not allowed any work to occur, while also rendering the "permitted or

suffered" limitation in the statute as surplusage. This commonsense, harmonized construction gives effect to both provisions: "employee" and "hours worked".

Second, Plaintiffs' desired interpretation is not feasible because it is an attempt to expand working time under the IMWL in a manner that would subject Illinois' employers, large and—particularly—small, to onerous and unworkable requirements, exposing them to expensive and extensive litigation, often on a class wide basis. As is inevitable in these cases, the individual recoveries are small—a matter of a few alleged seconds or minutes here or there—such that there is minimal benefit to employees, but there is massive upside to the plaintiffs' bar. Simply put, these are not cases about workers' rights. Rather, they are attempts by lawyers to grab windfall payments from employers, with little to no benefit to employees, while posing serious risk to employers and their ability to operate in Illinois.

From the outset, Plaintiffs' proposal—that employees must be paid for all time that they are on an employer's premises, regardless of their work activity—creates a practical challenge to employers that is not readily solvable. Must employees be paid from the time they spend walking through the front door to their timeclock? For the seconds that it takes to punch into the timeclock? If the employer has an on-site parking lot, must the employee be paid from the time they drive into the parking lot? If the employee dawdles or stops to speak with a colleague, is that compensable time? Would employers thus be forced to install timeclocks on the outside of their shop doors?

Functionally, Plaintiffs propose a theory of strict liability for time on which an employee is on an employer's premises, which is neither practical nor feasible, particularly for Illinois' thousands of small employers who would be faced with the unworkable task of tracking every second an employee is on premises, regardless of whether they are

working. Further, Plaintiffs propose, that if an employer is unable to do this impossible task, they then should be exposed to potential class wide liability, and incredibly would have employers be already liable through the existing statutory period, notwithstanding their reliance on decades of precedent holding that the IMWL and FLSA are parallel.

Even here, the ambiguity of the time that Plaintiffs are seeking to recover is vague and unclear. Does compensable working time start when an employee undergoes a security screening, or the time walking to the screening? Does the screening time start when the employee enters the queue to be screened or actually is being screened? What even is a screening? Does it include unlocking a front door, a badge swipe to enter the premises, or even swiping into an employee parking garage? Plaintiffs' proposal is vague and would require employers, on an individual-by-individual basis, to analyze nuances of screening processes which are not practical nor universal. And because 56 Ill. Admin. Code § 210.700 requires employers to accurately record hours worked, Plaintiffs' reading would expose employers to limitless liability for not being able to comply, and penalize them for failing to divine the precise moment compensable time begins.

Adding to all of this is that employers would be forced to analyze the nuances between state and federal law if this Court interprets them to diverge, which could lead to state and federal law having diametrically opposing positions about when working time starts. This would require onerous and costly legal analysis for employers to navigate a bespoke nuance to Illinois law. Not all employers are Fortune 500 companies with access to expensive lawyers. In fact, most are not, and such a divide between federal and state requirements would sow confusion, undermine predictability, and expose those small employers to potentially significant liability and legal fees to defend claims for amounts

that, on a per-employee basis, are nominal. *See Mitchell v. JCG Indus., Inc.*, 745 F.3d 837, 845 (7th Cir. 2014) ("There is a benefit, in simplified labor relations, from a degree of convergence of federal and state law in regard to the scope of exemptions from mandatory provisions of those different bodies of law when both are applicable to the same workforce, as they are in many cases.").

The PPA provides a predictable framework for employers, as employers' obligations are tied to the performance of actual work activities—not nebulous standards about when an employee's foot may grace the employer's premises. This, in turn, promotes employee safety and security, as it encourages employers to, among other things, provide health checks during a pandemic (such as here), and to ensure that workers are not bringing weapons or intoxicants into the workplace. None of these screenings are "indispensable" to an employee's performance of their job, nor do they involve the performance of functional work, but they promote and improve the work environment. Should employee safety and security be sidestepped to avert litigation risk? Are businesses in the wrong for attempting to identify and limit threats—public health, theft, and contraband—that endanger every other employee on the floor?

A rule that creates uncertainty while punishing the adoption of common-sense protections is not a rule that advances the well-being of the workforce; it is a rule that chills prudent prevention, reduces visibility into emerging risks, and ultimately makes workplaces less safe for everyone, while needlessly exposing the employer to liability. By recognizing that brief, pre-shift and end-of-shift screenings fall outside compensable time, this Court would adopt a clear rule that protects employees and workplace safety by

preventing perverse incentives to weaken employee wellbeing—an outcome no fair reading of any statute should permit.

CONCLUSION

For these reasons, this Court should answer the certified question in the positive: the IMWL does incorporate the PPA's exclusions for compensable time.

Respectfully submitted,

/s/ Norman Leon
Norman Leon
norman.leon@us.dlapiper.com
(ARDC # 6239480)

DLA PIPER LLP (US)
444 West Lake Street, Suite 900
Chicago, IL 60606-0089
Telephone: 312.368.4000
Facsimile: 312.236.7516

Dated: November 14, 2025

Attorneys for *Amici Curiae*

CERTIFICATE OF COMPLIANCE

I certify that this brief conforms to the requirements of Rules 341(a) and (b). The length of this brief, excluding the pages contained in the Rule 341(d) cover, the Rule 341(h)(1) table of contents and statement of points and authorities, the Rule 341(c) certificate of compliance, the certificate of service, and those matters to be appended to the brief under Rule 342, is 17 pages.

/s/ Norman Leon
Norman Leon
norman.leon@us.dlapiper.com
(ARDC # 6239480)

DLA PIPER LLP (US)
444 West Lake Street, Suite 900
Chicago, IL 60606-0089
Telephone: 312.368.4000
Facsimile: 312.236.7516

Dated: November 14, 2025

Attorneys for *Amici Curiae*

APPENDIX TO THE BRIEF

STATE OF ILLINOIS

IN THE CIRCUIT COURT FOR THE 19TH JUDICIAL CIRCUIT

LAKE COUNTY

SHARITA WILLIAMS and ANGELA MATHERS on behalf of themselves and all others similarly situated,	)	
Plaintiffs,	)	
vs.	)	NO. 23 LA 680
GREAT AMERICA, LLC, and SIX FLAGS ENTERTAINMENT CORPORATION,	)	
Defendants.	)	

REPORT OF PROCEEDINGS of the hearing before the HONORABLE CHARLES SMITH on May 9th, 2024.

APPEARANCES:

RICHARD E. HAYBER,
Attorney at Law,
for the Plaintiffs.

DANIEL J. FAZIO and
GARRETT D. KENNEDY,
Attorneys at Law,
for the Defendants.

KATELYN A. BOYCE
Official Court Reporter
IL License No. 084-004876

(Whereupon, the following proceedings were held in open court, commencing at 9:31 a.m.)

THE COURT: On the case of Williams vs. Great America, would counsel for each side please identify themselves for the court reporter. We do now have a court reporter present in the courtroom.

MR. HAYBER: Good morning, Your Honor. Attorney Richard Hayber for the plaintiffs.

MR. FAZIO: Good morning, Your Honor. Daniel Fazio on behalf of the defendants, and I'm joined with my colleague, Garrett Kennedy.

THE COURT: Very well.

And we have the caption already, correct, Madam Court Reporter?

THE REPORTER: Yes, Judge. Thank you.

THE COURT: Thank you very much.

Okay. This matter comes before the Court for ruling today on motions to dismiss filed by the defendants.

As to -- Counts 1 and 2 allege violations of the Illinois Minimum Wage Law and -- in Count 1 and violation of the Illinois Minimum Wage Law and failure

to pay overtime compensation. Plaintiffs' complaint sets forth that they are seasonal employees of the defendant working as hourly food service workers; see paragraphs 11 and 12 of the complaint.

The plaintiffs allege that they have not been compensated for time spent at pre- and post-shift security clearances and walking to their assigned posts, paragraph 23. And they are asked to walk from the security entrance to their workstation, and they estimate the time to be 11 minutes, at least for the designated lead plaintiffs, paragraph 24. In total, the plaintiffs' claims are -- claim to be approximately 20 minutes per day of uncompensated time for security screening and walking to their assigned locations, paragraph 27.

The complaint does not define how long the plaintiffs' shifts are, and so I can't determine whether there's -- whether the 20 minutes they claim is in excess of 40 hours per week. The plaintiffs seek class certification of all similarly situated employees of defendants; see paragraphs 37 and 38 of the complaint.

Plaintiffs have filed -- I'm sorry. The defendants have filed a 2-615 motion to dismiss alleging that the plaintiffs are not entitled to compensation for

time entering the employer's facility, going through security screening, or time walking from security screening to their individual workstations. The nature of this dispute is well summarized in the introduction in the plaintiffs' memorandum and opposition to the defendants' motion to dismiss filed on February 27th of 2024.

Plaintiffs assert that the defendants rely on the federal Portal-to-Portal Act, an act that -- in response to the U.S. Supreme Court decision in Anderson vs. Mt. Clemens Pottery, 328 U.S. 680, but they contend that the Illinois Department of Labor has never adopted the Portal-to-Portal Act and that Illinois, therefore, requires that the plaintiffs be paid for all time they are on the defendants' premises.

Defendants respond that the Portal-to-Portal Act does apply and that the plaintiffs' position is directly contradicted by a holding of Federal Court Judge Thomas Durkin in the recently decided case of Johnson vs. Amazon.com, LLC, 2023 Westlaw 8475658, Northern District of Illinois, decided December 7th of '23. Defendants respond that the Johnson vs. Amazon case is just plain wrongly decided and -- to quote them -- and not applicable to the case before the Court;

see pages 8 and 10 -- 8 to 10 of the plaintiffs' memorandum filed on February 27th.

The standard for review of the question presented to the Court by this 615 motion is whether the allegations of the complaint construed in a light most favorable to the plaintiffs are sufficient to state a cause of action upon which relief can be granted. Henderson Square Condo Association vs. LAB Townhomes, 2015 Illinois 118139.61. The Court properly dismisses a cause of action only when it is apparent that no set of facts can be properly proven that would entitle the plaintiff to relief. Turcios, T U R C I O S, vs. DeBruler Company, 2015 Illinois Appellate -- Illinois 117962.15. Analysis of Counts 1 and 2, the defendants in their first motion to dismiss did not attack Counts 1 and 2 of plaintiffs' complaint; however, after the decision in Johnson vs. Amazon, the case -- the defendants filed a supplemental motion to dismiss attacking Counts 1 and 2 based upon the holding in Johnson.

Counts 1 and 2 both assert that the defendants violated the Illinois Minimum Wage Act for failure to pay the plaintiffs the time spent entering the park, going through security clearance, walking to their

workstation, and reversing the process at the end of their shift, that they walked back to the security, went through security again, and they want to be compensated for the walking time as well as going through security. Count 2 involves the same claims as Count 1 but adds the assertion that the defendant has failed to pay plaintiff overtime for hours worked over 40 in a week.

The Court has examined various components of the plaintiffs' complaint and grants the motion to dismiss as it relates to the time spent pre- and post-employment screening based upon the holding in Integrity vs. Busk, 135 Supreme Court 513 in 2014, the unanimous decision of the U.S. Supreme Court that held that time spent by employees waiting for and undergoing security screening before leaving the workplace was not compensable under the federal Fair Labor Standards Act.

The defendants' motion to dismiss Counts 1 and 2 as to time spent in security clearance both pre- and post-work hours is granted. Integrity establishes the test for such screening that the courts are to apply and determine whether the activity was integral and indispensable to the employees' duties. The activity in the case at bar is identical to the activity found not to be compensable in Integrity to its

security screening.

Plaintiffs argue that the holding in Integrity is based in part upon the federal Portal-to-Portal Act of 29 U.S. Code Section 254(a)(1), which is -- which was passed in response to an earlier Supreme Court case of Anderson vs. Mt. Clemens Pottery, 328 U.S. 680.

The plaintiffs assert that no legislative act of the Illinois General Assembly has ever adopted the Portal-to-Portal Act, and the regulations established by the Illinois Department of Labor arguably reject the Portal-to-Portal standard, thus Illinois employers are required to pay their employees for all hours that are spent on the premises.

The defendants' dispute is that the Illinois Department of Labor has, in fact, rejected the Portal-to-Portal Act and that the employee is only required -- and the employer is only required to compensate employees for the actual time that they are at their workstations performing the employee's essential principal activities.

The Court has looked at similar disputes and decided under Illinois law -- I've looked at other cases in Illinois to discern whether the time spent walking from the employees' entrance to the employee's

workstation is compensable under either the Illinois Minimum Wage Act or the federal Fair Labor Standards Act.

In the case of Bartoszewski vs. Village of Fox Lake, 269 Ill. App. 3d 978, Second District, 1995, the Court held that time spent by police officers and civilian employees of the police department at roll call was entitled to compensation and that the defendant village's refusal to pay them for that time violated the federal Fair Labor Standards Act. A similar holding can be found in Aiardo vs. the Village of Libertyville, 184 Ill. App. 3d 653, Second District case from 1989. The Bartoszewski case went on to hold that the 10 to 15 minutes spent in roll call to receive assignments for the day and being advised as to criminal activity and other matters that needed to be watched was subject to the federal de minimis rule.

This Court acknowledges that time spent walking to and from a workstation from the security center is distinguishable from time spent by a police officer or even a civilian employee of the police department receiving information from the prior shifts as to the occurrences in the police district.

This Court cannot rule that the plaintiffs

have failed to allege a cause of action for this time, and accordingly, the 615 motion to dismiss as to the claim for time spent walking to and from the security entrance to the job location is denied. The entire issue of overtime as alleged in Count 2 for the time walking to and from the screening is denied pending discovery as to whether the time spent getting to the employee's workstation exceeded the 40-hour threshold.

As to Counts 3, 4, and 5, in Count 3 the plaintiffs allege a violation of the Illinois Wage Payment and Collection Act, 820 ILCS 15 -- 115/4. This Court -- This count rather asserts that the defendants breached an agreement -- in quotes -- with the plaintiffs to pay the employees for time spent in security screening and walking to and from their workstation, paragraph 56 of their complaint. The defendants respond that there is no agreement to pay the employees for this time.

This dispute is similar to that found in Brand vs. Comcast, 2013 Westlaw 1499008, decided by the Federal District Court for the Northern District of Illinois. In Brand, the Court held that an employee handbook was not in agreement within the IWPCA. Here the defendants' promise to pay wages to the plaintiffs

for their work is not definitive. The Brand court noted, Thus claims for compensation under the IWPCA and -- are akin to breach of contract actions, allowing an employee claiming a promised wage has not been -- a promised wage has been withheld to require that the employer honor the contract.

Further support for the holding is found in Schneider vs. Ecolab, E C O L A B, 2015 Westlaw 1402615, which found no contract between an employer and an employee based on a handbook and that the IWPCA did not apply.

And in Dawkins vs. NR 1 Transport, 2021 Westlaw 4120586, I quote under the theory of unjust enrichment, the Court noted: Finally, the defendants argue that the plaintiff's unjust enrichment claim cannot be asserted as a stand-alone claim and must rise and fall on the fate of the plaintiff's other claims. On this point, the Court agrees. The parties' discussion of the issue focuses on where -- on the case of Cleary vs. Philip Morris, 656 Fed 3d 511 at 516 to 518, where the Seventh Circuit noted a split in Illinois cases with some courts recognizing unjust enrichment as an independent cause of action and others refusing, comparing Raintree Homes vs. the Village of Long Grove,

209 Ill. 2d 248. Here the plaintiffs had no substantive claim grounded in tort, contract, or statute; therefore, the only substantive basis for the claim is restitution to prevent unjust enrichment; that case relying on Martis, M A R T I S, vs. Grinnell Mutual Reinsurance. Unjust enrichment is not a separate cause of action that standing alone will justify an action for recovery. While the Court in Cleary did not definitively reconcile the split in case law, the Seventh Circuit has clarified its view under Illinois law that unjust enrichment is not a separate cause of action, citing Vanzant, V A N Z A N T, vs. Hill's Pet Nutrition, 934 Fed 3d 730, quoting, Rather the request for relief from -- based on unjust enrichment is tied to the fate of the corresponding statutory claim finding in accord Benson vs. Fannie May Confections Brands, 944 Fed 3d 639 at 648. Here too plaintiff's unjust enrichment claim is tied to the fate of her statutory claim and her conversion claim. It does not provide an independent basis for recovery and is, therefore, dismissed without prejudice. That's the end of the quote from the Dawkins case.

In this case, the defendant never promised to pay the plaintiffs for screening or walking time, and

the plaintiffs for a significant period of time never demanded compensation for screening or walking time. The plaintiffs have not alleged an enforceable contract between the parties, and thus the claim for compensation under the Illinois Wage Protection and Claims Act is insufficient to state a cause of action.

Count 3 is dismissed pursuant to 2-615. The Court will grant the plaintiffs 30 days to replead this count, and if the plaintiffs are of the opinion that they can state a contract between the parties, the Court -- the plaintiffs, of course, must adhere to the holding in Loyola Academy vs. S&S Roofing.

Counts 4 and 5 are claims asserted under the common law theories of unjust enrichment, Count 4, and quantum meruit, Count 5. The Court finds that the holding in Dawkins vs. NR 1 Transport previously cited is persuasive authority to grant the 615 motion as to Count 4. The case holds that there is a statutory remedy for the plaintiffs' claimed damages, thus unjust enrichment will not be an alternative theory.

Count 4 is dismissed with leave to replead within 30 days. That same result will apply to the common law theory of quantum meruit. A plaintiffs' right to recover either exists under the Illinois Wage

Protection Act or under the Illinois Minimum Wage Act or it doesn't exist at all. The plaintiffs have statutory rights recognized -- Excuse me. The plaintiffs have statutory rights regarding their claims, but those statutes grant recovery under either the theory of unjust enrichment or quantum meruit.

I would appreciate the defendants preparing an order stating that for the reasons stated on the record, the counts -- all the counts are dismissed with the exception of the claim under the Illinois Minimum Wage Act.

And I guess I'll wait to see what the discovery shows in that regard, and the defense certainly wants to see what the Seventh Circuit has to say about Judge Durkin's ruling.

With that, can the parties agree on a 218 schedule for this case? Oh, wait. We should wait -- I should wait to do that until we have the 30 days to replead, so what I'll do then is set this case for June 13th at 9:00 a.m. for status of pleadings, and that can be by Zoom.

Anything from either side?

MR. HAYBER: Your Honor, Richard Hayber for the plaintiffs. Thank you for your time.

THE COURT: You're welcome, sir. Okay.

MR. FAZIO: Your Honor, thank you very much for your considered ruling. I appreciate it.

The only I think outstanding issue that -- and I haven't had a chance to confer with plaintiffs' counsel on this, but we do have an outstanding scheduling order that was issued back in January when originally before we had moved to dismiss the first two counts, and I'm thinking it may make sense to either, like, vacate that order or maybe the parties can maybe confer and propose something because right now we have -- you know, we don't even know what the status of pleadings is, so I'm just wondering if it makes sense to vacate that existing scheduling order or at least amend that.

THE COURT: I don't want to vacate it until I have something to put in its place, and that's what I'll do on June 13th. Both sides -- I'm not going to hold you to that order, but I am going --

MR. FAZIO: Okay.

THE COURT: I would like to see whether the plaintiffs are going to replead. I doubt we're going to have a decision from the Seventh Circuit by that time, and I can't wait for them just like they won't wait for

me.

So just -- Mr. Hayber?

MR. HAYBER: What's the best way to get the transcript of this?

THE COURT: I will ask my court reporter to email you both her address, and you will make your financial arrangements with her, and she'll be happy to get you a copy of today's ruling. Okay?

MR. HAYBER: Thank you.

THE COURT: You're welcome.

And you will do that, won't you, young lady?

THE REPORTER: Yes.

THE COURT: Thank you. Okay. All right.

MR. HAYBER: A day or two probably?

THE COURT: Yeah, yeah. Well, I'm not going to commit her time as to when she'll have it typed, but she will get you her information today so you know who the court reporter is.

In fact, Mr. Fazio, why don't you wait until you get the information from my court reporter, and then you can just say for the reasons stated on the record and insert her name and court number, ID number, and put the rest of the stuff in there. Okay?

Gentlemen, thank you for your excellent

presentation. I look forward to seeing you in June. We'll keep this case moving along.

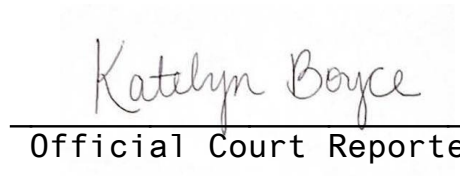
(End of proceedings.)

STATE OF ILLINOIS

IN THE CIRCUIT COURT OF THE 19TH JUDICIAL CIRCUIT

LAKE COUNTY

I, KATELYN A. BOYCE, CSR (084-004876), an Official Court Reporter for the Circuit Court of Lake County, 19th Judicial Circuit of Illinois, reported in machine shorthand the proceedings had in the hearing in the above-entitled cause and transcribed the same by Computer-Aided Transcription, which I hereby certify to be a true and accurate transcript of the proceedings had before the Honorable Charles Smith.



Official Court Reporter

Dated: This 16th day of May, 2024