

# When Does Workplace Activity Count as Compensable Time in New York?

## How Injured Workers Can Protect Their Rights When Employers Blur the Lines

At [Pasternack Tilker Ziegler Walsh Stanton & Romano LLP](#), our New York workers' compensation lawyers know that one of the most confusing questions injured workers face is simple: *what counts as "work" in the eyes of the law?* It's not always just the hours you're on the floor or at your desk. Sometimes employers require workers to perform tasks before, after, or even during breaks, and when that happens, disputes often arise over whether that time should be paid or considered part of a [workers' compensation claim](#).

This issue is not new. Federal courts have dealt with cases involving workers required to put on or take off safety equipment outside their shifts, known as "donning and doffing" cases. More recently, disputes have arisen around activities like mandatory security checks, waiting for protective gear, and even injury-related care, such as icing or heating treatments on breaks. For New York employees, understanding when this time is compensable can mean the difference between fair treatment and lost wages.

## What Is Compensable Time Under New York Law?

Compensable time generally refers to any period when an employee is required to be engaged in activities that benefit the employer. Under both [federal law \(the Fair Labor Standards Act\)](#) and New York State law, employees must be paid for time spent performing tasks that are necessary to their job duties.

This may include:

- Time spent putting on or removing safety equipment.
- Time waiting for or completing mandatory security or health screenings.
- Time spent following medical or injury protocols required by the employer.
- Time spent performing work-related tasks during unpaid breaks.

The test often comes down to who receives the primary benefit of the activity: the employee or the employer.

## How Does the "Predominant Benefit" Test Apply?

Courts frequently use what's called the "predominant benefit" test to decide whether disputed time counts as work. The question is straightforward: Does the activity primarily benefit the employer or the employee?

If the employer gains the predominant benefit — for example, requiring workers to wear protective gear that allows production to proceed — the time is likely compensable.

If the activity is primarily for the worker's personal health or comfort, it may not be considered work time.

But the line isn't always clear. Even activities that appear to benefit the employee, such as icing or heating an injury, may still be compensable if they are required by the employer as part of continued work performance.

### **Can Employers Require Injury Treatments During Breaks?**

In some workplaces, particularly those involving heavy labor, employers have instructed injured employees to apply ice or heat during scheduled breaks instead of seeking full medical leave. The legal issue becomes whether that time is personal recovery or a mandatory employer-directed activity.

If the employer is requiring it as a condition of continuing to work, there's a strong argument that it should be treated as work time. For injured workers, this raises important concerns:

- **Loss of rest time:** Breaks are meant for recovery. If the employer is dictating what happens during that time, it may no longer qualify as a true break.
- **Increased injury risk:** Forcing workers to self-treat on the job rather than taking medical leave may worsen injuries.
- **Compensability:** Workers may be entitled to pay for that time, and the treatment itself may strengthen a workers' compensation claim.

### **How Do Donning and Doffing Cases Shape Modern Workplace Rights?**

The famous "donning and doffing" cases, many of which involved meatpacking and manufacturing plants, established that the time spent putting on or removing required protective gear can be compensable. Employers argued that workers benefited from safety protections, but courts held that the ultimate benefit was to the company's operations.

This legal reasoning has spilled into other disputes. Mandatory health checks, security screenings, and injury protocols are now analyzed under similar principles. If the company requires the activity and it serves business needs, workers can argue they should be compensated.

### **What Should New York Workers Do If Asked to Perform These Activities?**

If you are asked to perform tasks outside your regular duties, particularly during breaks or outside scheduled hours, you should:

- **Document the instructions.** Keep a record of what you were told to do and when.
- **Note the context.** Was the task optional or mandatory? Who primarily benefited?
- **Track your time.** Write down how long the activity took.
- **Seek medical documentation.** If injury-related care is involved, medical notes can support that the treatment was employer-directed.

This evidence can become critical in workers' compensation cases.

### **Are Breaks Still Breaks If Work Is Required?**

New York law recognizes that breaks are meant for employee rest. If an employer interrupts or controls that time, it may no longer be considered a bona fide break. For example:

- A warehouse worker required to undergo safety checks during lunch.
- A nursing aide instructed to complete charting before leaving for an unpaid meal.
- A factory employee told to ice an injury during every rest period.

In each case, the break arguably becomes compensable time, and in injury situations, it may also serve as evidence supporting a claim for workers' compensation.

### **How Does This Affect Workers' Compensation Claims?**

Workers' compensation is designed to cover lost wages and medical care when employees are injured on the job. If an employer requires injury treatment on-site, such as ice or heat therapy, it can be powerful evidence that the injury is work-related and serious enough to warrant accommodations.

It also raises questions about whether the employer is attempting to minimize the claim by keeping the worker on the job rather than authorizing medical leave or additional treatment. An attorney can help determine whether this practice strengthens the argument for ongoing benefits or even total disability.

### **What Rights Do Injured Workers Have in New York?**

If you've been injured on the job in New York:

- **You cannot be forced to choose between pay and recovery.** Mandatory treatment during breaks may give rise to claims for both compensation and damages.
- **Your employer cannot misclassify your time.** If the company controls your activity, that time may count as work.
- **You have the right to medical care.** Workers' comp is meant to provide proper treatment, not just stopgap measures at the workplace.

Legal representation makes the difference. Employers and insurers often deny or minimize these claims, but an attorney can fight for the full scope of your rights.

### **How Pasternack Tilker Ziegler Walsh Stanton & Romano LLP Can Help**

For more than 90 years, Pasternack Tilker Ziegler Walsh Stanton & Romano LLP has stood up for New York workers whose rights were ignored or minimized by employers. We understand the nuances of workers' compensation, and we know how to use legal strategies that protect injured workers from unfair practices.

If your employer has asked you to perform injury treatments, safety tasks, or other activities during breaks or outside regular work hours, you may be entitled to more than you've been told. Our attorneys can evaluate your situation, gather evidence, and pursue the compensation and benefits you deserve.

To learn more about your options, [contact us today](#) for a free consultation.