

■ Recent Court Cases ■

## Compensation agreement requiring separate payments for overtime, nighttime and holiday pay in addition to ordinary wages would not qualify as blanket wage system

[Case No. Supreme Court decisions 2015da233579 and 2015da233586 dated February 6, 2020]

Kwang Sun LEE | Hae Ju SHIN

The plaintiffs were working as bus drivers of the defendant bus company by working every other day. The plaintiffs operated the line five times per day and the work hours were set to be 17 or 19 hours per day in view of the average hours of operation. The plaintiffs filed a suit against the defendant company seeking additional payment of statutory allowances. The defendant company responded that there was a blanket wage system in place.

The first instance court held that the blanket wage system was established between the plaintiffs and the defendant.

However, the Supreme Court held that there would be no blanket wage system if there were either collective agreements, or rules of employment or compensation, providing for separate payments of overtime, nighttime and holiday pay in addition to ordinary wages, even if the overtime, nighttime and holiday work were clearly anticipated based on the form of employment or the nature of the work in the individual cases.

The court reversed the lower court decision which had held the blanket wage system was established, and remanded to the lower court based on finding that (1) the statement on the compensation

agreement provided for separate payments for overtime and nighttime pay in addition to ordinary wages; (2) the compensation agreement provided in advance for the work hours to be 17 or 19 hours per day including a set number of hours for overtime and nighttime work; and (3) the overtime and nighttime pay by the number of work days were calculated per the number of hours for overtime and nighttime work as set forth above based on the ordinary wages and in view of the rate set forth under the Labor Standards Act to be included in the monthly wage.