

## Publications

### **Labor and Employment Alert: Recent Oil and Gas Verdict Highlights the Importance of FLSA Compliance**

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#### **CLIENT ALERT | 9.25.2018**

Under the federal Fair Labor Standards Act (FLSA), employees who are covered by the act's overtime provisions must receive overtime pay for hours worked over 40 in a workweek at a rate of not less than time and one-half their regular rate of pay. An employee who prevails in his or her lawsuit for unpaid overtime compensation is also entitled to an award of reasonable attorney's fees and litigation costs. A recent case from the United States District Court for the Western District of Pennsylvania highlights how expensive an FLSA case can be.

In 2015, in *Sammy Mozingo v. Oil States Energy Services L.L.C.*, oil field workers in Texas filed a class action alleging that their employer Oil States had misclassified them as exempt from overtime laws. Twenty-nine frac hands, grease hands and crane operators opted out of that class action and, instead, filed their own suit under the FLSA in federal district court in the Western District of Pennsylvania. Multiple employees thereafter settled their claims with Oil State until eight employees remained. Both the employees and Oil State cross-moved for summary judgment, which the Court denied. The case then proceeded to trial in 2018.

After two week-long trials for four employees each, the juries returned verdicts in favor of each of the eight employees. The juries awarded damages to the employees ranging from \$54,292 to \$178,388 – the total amounted to \$1,003,154. The Court then awarded the plaintiffs' lawyers their reasonable attorney's fees of \$2,263,904 and reasonable costs of litigation of \$118,826. Combined, Oil States paid damages, fees, and costs totaling \$3,385,884 for just these eight employees. Of course, this amount does not include the amount Oil States had to pay its own attorneys, nor does it account for the costs and distraction associated with years-long litigation culminating in two weeks of trial.

The *Mozingo* case is notable for several reasons. First, the case is unusual in that it went to trial, as many such cases typically settle. Second, the case highlights how expensive FLSA litigation can be when employees are found to be misclassified and so not properly paid overtime. Third, the amount of attorney's fees and costs awarded to

prevailing employees can be substantial and may even exceed the amounts the employees recover. Finally, the case underscores the importance of wage-hour compliance. Contact your Vorys lawyer if you have questions about the FLSA, similar state laws, and best practices for ensuring compliance.