Sixth Circuit Restricts Nationwide FLSA Collective Actions

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CLIENT ALERT | 8.20.2021

The United States Court of Appeals for the Sixth Circuit recently limited the ability of plaintiffs to bring nationwide collective actions under the Fair Labor Standards Act (FLSA). In *Canaday v. Anthem Companies, Inc.*, the court held that federal district courts lacked personal jurisdiction over collective actions asserted by individuals who did not work for the employer in the state where the collective action is pending (unless the case is pending in either the state where the employer is incorporated or the state where it has its principal place of business). This means, for example, that if an employer that is not based in Ohio is sued in a collective action in Ohio, the district court will not have personal jurisdiction over employees whose alleged injuries arose in another state. Thus, those out-of-state employees cannot be part of the collective action. The decision applies to district courts in Kentucky, Michigan, Ohio, and Tennessee.

Several district courts previously considered this same issue, reaching different conclusions. The Sixth Circuit was the first federal appellate court to address that split and apply the U.S. Supreme Court's 2017 decision in *Bristol-Meyers Squibb Co. v. Tyrrell* to the FLSA context. In *Bristol-Meyers Squibb*, the Supreme Court limited jurisdiction in mass tort cases brought under state law to only those plaintiffs from the state where the case is brought. For the FLSA, the Sixth Circuit's decision is important because it limits the states where an employer may be subject to a nationwide collective action. That limitation, in turn, prevents plaintiffs from "forum shopping," or seeking out the most favorable federal district court in which to bring a nationwide collective action.

Although the Sixth Circuit was the first to issue an opinion on this issue, the Eighth Circuit (covering Arkansas, Iowa, Minnesota, Missouri, Nebraska, North Dakota, and South Dakota) soon reached the same conclusion in *Vallone, et al. v. CJS Solutions Group, LLC*. A similar case is also pending before the First Circuit, and other circuits will likely soon address the issue as well. If an appellate court reaches the opposite conclusion, it is possible that the Supreme Court will eventually address the dispute. For now though, between the two decisions in the Sixth and Eighth Circuits, there are eleven states where FLSA collective

actions are generally limited only to employees whose alleged injuries arose in those states in which they worked, unless the employer is incorporated or headquartered in the state where the case is pending.

Contact your Vorys lawyer if you have questions about FLSA collective actions or best practices in how to avoid them.