# *Oil and Gas Alert:* Service Company Learns Some Expensive Lessons About Wage-Hour Law in $6 Million Settlement

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Recently, the U.S. District Court for the Western District of Pennsylvania granted preliminary approval to a $6 million class and collective action settlement between Calfrac Well Services Corp. and a class of about 1,300 fracturing, cement, and coil operators. The plaintiffs worked as field operators in Pennsylvania, Colorado, North Dakota, and Arkansas and were paid according to a complicated formula that included a salary, bonuses, and overtime. The case centered on how the operators' regular rate of pay (the rate which provides the basis for the time-and-a-half overtime premium) should be calculated.

The plaintiffs claimed that their regular rate of pay should be calculated by dividing the base salary and bonuses by 40 hours per week. Calfrac, on the other hand, claimed that the regular rate should be determined by dividing the operator's base salary and bonuses by the total hours worked each week, which would result in a much lower base rate and, hence, a lower overtime premium and lower overall liability. Calfrac also argued that some or all of the plaintiffs' claims would be barred by the federal Motor Carrier Exemption because field operators may drive vehicles weighing over 10,000 pounds.

After three years of litigation, the Calfrac and the plaintiffs reached a settlement that encompasses Calfrac's field operators in Pennsylvania, Colorado, North Dakota, and Arkansas. If the settlement is finally approved, class members will each receive between $250 and $10,000. The plaintiffs' lawyers will receive up to $2 million in attorneys' fees.

The settlement highlights some important reminders for the oil and gas industry about wage-hour compliance. The federal Fair Labor Standards Act has highly technical requirements for calculating employees' rates of pay – such as whether certain bonuses, expense reimbursements, or travel and lodging allowances must be included in the regular rate of pay – so the more convoluted the compensation method, the more room there is for error. Along those lines, the federal requirements may differ from those of state law (and, sometimes, city or county ordinances) and a company needs to understand and comply with both sets of obligations. It is critical to understand the differences between federal, state, and local laws, as well as how other federal laws such as the Motor Carrier Act may affect operations. Litigation that starts in one state with a small group of employees can spread nationwide, vastly multiplying the company's potential exposure, especially if the company's pay methods do not meet the stricter state law requirements. And litigation is costly and time-consuming. The $6 million settlement Calfrac must pay to the class members and plaintiffs' attorneys does not include the fees the company paid to its own attorneys to defend itself.

Contact your Vorys lawyer for assistance in ensuring that your operations comply with federal, state, and local wage-hour requirements.