Oil Field Service Employees are Exempt from FLSA Overtime, Federal Appeals Court Rules

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Certain employees of an oil well services company engaged in safety-affecting interstate activities are exempt from Fair Labor Standards Act overtime pay under the Motor Carrier Act (“MCA”), the federal appeals court in New Orleans has ruled. Allen et al. v. Coil Tubing Services, L.L.C., No. 12-20194 (5th Cir. June 13, 2014). The Court affirmed the district court’s use of a company-wide analysis on the interstate activities of oil field services employees, rather than an individualized examination of employee duties, to reach that conclusion. The Fifth Circuit has jurisdiction over Louisiana, Mississippi, and Texas.

Background
The employer, Coil Tubing Services (“CTS”), services oil wells. From 2005 to 2008, the company divided itself into six geographic districts. The districts operated under a single U.S. Department of Transportation (“DOT”) number and were not legal entities distinct from CTS. The districts sometimes borrowed personnel and equipment from each other. They also sometimes solicited and accepted projects outside their respective geographic boundaries.

The plaintiffs worked in four of the districts: Alice, Texas; Angleton, Texas; Bridgeport, Texas; and Broussard, Louisiana. Their positions included: Equipment Operator (“EO”), Service Technician I (“ST-I”), Service Technician II (“ST-II”), Service Supervisor Trainee (“SST”), Service Supervisor (“SS”), Service Coordinator (“SC”), and Field Engineer I (“FE-I”). Their duties varied by position. SCs coordinated projects. FE-Is recorded the pressure of coil tubing units at well sites. EOs, ST-Is, ST-IIs, SSTs, and SSs helped transport materials to project sites. The plaintiffs alleged that they worked more than 40 hours a week and that CTS wrongfully denied them overtime pay in violation of the FLSA.

Motor Carrier Act Exemption
Section 207 of the FLSA requires an employer to pay overtime compensation to any employee working more than 40 hours in a workweek. The MCA exemption states that the FLSA’s overtime requirement “shall not apply . . . to . . . any employee with respect to whom the Secretary of Transportation has power to establish qualifications and maximum hours of service pursuant to the provisions of section 31502 of Title 49” of the MCA. Section 31502, in turn, provides that the DOT “may prescribe requirements for . . . qualifications and maximum hours of service of employees of, and standards of equipment of, a motor private carrier, when needed to promote safety of operation.”

For the MCA exemption to apply, employees must meet both of the following: (1) be employed by carriers whose transportation of passengers or property by motor vehicle is subject to the Secretary of Transportation’s jurisdiction; and (2) be engaged in activities of a character directly affecting the safety of operation of motor vehicles in the transportation on the public highways of passengers or property in interstate or foreign commerce within the meaning of the MCA.

To satisfy the first requirement, an employer must be engaged in interstate commerce, which courts have defined as the actual transport of goods across state lines or the intrastate transport of goods in the flow of interstate commerce.

To satisfy the second requirement, what is controlling is the character of the activities involved in the performance of the employee’s job. Generally, if the bona fide duties of the job performed by the employee are in fact such that the employee is called upon in the ordinary course of his or her work to perform, either regularly or from time to time, safety-affecting activities, the employee comes within the exemption in all workweeks when he or she is employed at such job. Where this is the case, the rule applies regardless of the proportion of the employee’s time or of his or her activities which is actually devoted to such safety-affecting work in the particular workweek, and the exemption will be...
applicable even in a workweek when the employee happens to perform no work directly affecting safety of operation. However, where the continuing duties of the employee’s job have no substantial direct effect on such safety of operation or where such safety-affecting activities are so trivial, casual, and insignificant as to be de minimis, the exemption will not apply to the employee in any workweek so long as there is no change in his duties.

Employer is Motor Carrier
The parties did not dispute that CTS satisfied the first requirement and is subject to the DOT’s jurisdiction because it is a motor carrier that engages in interstate commerce.

MCA Exemption Found
The district court determined that EOs, ST-IIs, ST-Hs, SSTs, and SSs, but not FE-Is and SCs, had similar-enough job duties to be grouped together as “Field Service Employees” (“FSEs”). The parties disputed whether, in measuring the interstate activities of FSEs, an “employee-by-employee,” “district-by-district,” or “company-wide” analysis is appropriate to determine whether the MCA exemption applied.

The district court granted summary judgment to CTS, using a company-wide analysis to find the MCA exemption applied to many of the plaintiffs. It used the individualized analysis to establish the class of FSEs and to determine that only FSEs who worked on land-based wells engaged in activities affecting motor vehicle safety. The district court then reasoned that a company-wide analysis of these employees’ interstate activities was appropriate because “[t]here is insufficient evidence or legal authority . . . to treat the districts separately.”

Measuring the interstate activities of land-based FSEs on a company-wide basis, the district court found seven percent of projects required FSEs to drive across state lines, such trips were assigned indiscriminately, and, therefore, land-based FSEs had a “reasonable expectation” that they “could be assigned to drive interstate.”

By a vote of 2-1, the appellate court affirmed the district court decision. It held that a company-wide analysis is appropriate in this case because the circuit’s precedent (Songer v. Dillon Res., Inc., 618 F.3d 467 (5th Cir. 2010)) foreclosed an employee-by-employee analysis and the facts of this case and the parties’ arguments did not support a district-by-district analysis.

Further, the Court declined to find the district court erred by not measuring interstate activity of each FSE by the individualized analysis after conducting that analysis to form the class of FSEs.

Dissent
Judge James L. Dennis dissented, arguing the majority failed to follow controlling Supreme Court and circuit court precedent, and Department of Labor regulation. Judge Dennis asserted the law required individual analysis of each employee’s actual job, rather than the company-wide analysis the district court and the majority applied. According to Judge Dennis, “The evidence shows that the plaintiffs, employees in Texas and Louisiana, are extremely unlikely to drive interstate.”

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In drafting compensation policy, employers not only must analyze the FLSA, but consider the peculiarities of their specific industries and the interrelation of various regulatory schemes applied to that industry. Jobs in the transportation industry in particular require a detailed analysis of job duties, safety rules, and how the company specifically conducts business to determine how jobs should be classified and compensation set.

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