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Helicopter Pilots Were Not FLSA-Exempt Learned Professionals

Michael Pignataro and Thompson Chase were helicopter pilots employed by the Port Authority of New York and New Jersey. When they sued under the Fair Labor Standards Act (FLSA) and won two years of back overtime pay for hours worked over 40 in a workweek, the Port Authority appealed, saying the pilots were exempt from the FLSA's overtime requirements because they were learned professionals. The Second Circuit Court of Appeals disagreed, and affirmed the award of back pay [*Pignataro v. Port Authority of New York and New Jersey*, Nos. 08-3605, 08-3825, 2010 U.S. App. LEXIS 1840 (2nd CA, 1-27-10)].

WHAT THE LAW SAYS – In order for an employee to qualify for the FLSA learned professional exemption, the employee must perform work requiring advanced knowledge in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction in addition to being paid a minimum amount weekly on a salary or fee basis (see *The Payroll Source*®, p. 2-15).

Analysis

Helicopter pilots' status as learned professionals. In order to qualify for their jobs, Port Authority helicopter pilots were required to: (1) log 2,000 hours of flying time in helicopters; (2) earn a commercial helicopter pilot certificate with a helicopter instrument rating; (3) earn a Federal Aviation Administration (FAA) Second Class Medical certificate; (4) have knowledge of FAA rules and regulations governing helicopter flights; and (5) earn a high school diploma or GED.

The court explained that an employee's status as a learned professional is determined by the employee's duties and salary. Here, none of the certifications required of helicopter pilots were academic degrees. Nearly all of their instruction took place in the air rather than a classroom. Logging in-flight hours, in-flight instruction, and passing practical and written tests are not a "prolonged course of specialized intellectual instruction and study," said the court. Although helicopter pilots have "specialized knowledge" and "unique skills," they are not covered by the learned professional exemption because their knowledge and skills are acquired through experience and supervised training, rather than intellectual, academic instruction.

Willfulness of Port Authority's FLSA violation. An employer that willfully violates the FLSA is subject to a three-year statute of limitations on violations instead of the usual two-year limit. Pignataro and Chase argued that the Port Authority's violation of the FLSA was willful because the agency repeatedly denied their requests to be paid time and one-half for overtime work and because others who had similar positions, such as a chief pilot and chief mechanic, were paid time and one-half for overtime work.

The court rejected the pilots' argument and affirmed that the two-year period was appropriate in this case. An employer does not willfully violate the FLSA if it acts reasonably to determine its legal obligation. Here, a Port Authority manager had consulted with the agency's law department before classifying the helicopter pilots as exempt. Moreover, there was legal authority from the Fifth Circuit Court of Appeals indicating that airplane pilots are FLSA-exempt learned professionals.