

PUBLICATION

Release Me: Fifth Circuit Allows Private Settlements of Wage and Hour Claims

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The Fifth Circuit Court of Appeals agreed on July 24, 2012 to enforce a private Fair Labor Standards Act (FLSA) settlement. Conventional wisdom and many federal courts previously held that either a court or the U.S. Department of Labor should always supervise the release of wage-and-hour claims.

In deciding to enforce the settlement agreement before it, the Fifth Circuit distinguished its holding from more than 30 years of federal court precedent in noting that there was a bona fide factual dispute over how many hours were worked and how much compensation was due. Private settlements in cases where the parties dispute the scope of the FLSA fell outside of the court's holding.

The ability for parties to reach private settlements in FLSA disputes could help employers that wish to avoid filing their settlements with a court, only to have the court insist that the settlement must be part of the public record. Employers often wish to keep such settlements out of view in order to stave off copycat suits. Courts, by contrast, tend to conclude that the public has a right to access settlement agreements.

Presently, this holding only applies to disputes over the application of the FLSA filed within the Fifth Circuit. However, it does portend the possibility that other circuits could follow suit, and that private FLSA settlements could become more accepted in other parts of the country.

If you have questions about private FLSA settlements and how this decision could affect your business in the Fifth Circuit and beyond, please contact any of our 70 Labor & Employment attorneys located in Birmingham, Alabama; Atlanta, Georgia; Baton Rouge, Mandeville and New Orleans, Louisiana; Jackson, Mississippi; Chattanooga, Johnson City, Knoxville, Memphis and Nashville, Tennessee; and Houston, Texas.