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## Third Circuit rules that helicopter pilots are entitled to overtime pay under the Fair Labor Standards Act.

The Fair Labor Standards Act (“FLSA”) is the federal law which governs the payment of overtime compensation, among other things. Generally speaking, employees are entitled to additional compensation for all hours worked over 40 hours in any given work week. However, not all employees are entitled to overtime compensation. The FLSA has carved out exemptions to the overtime requirements for certain job classifications. One of those job categories is the “learned professional” classification. In order to be considered a learned professional, an employee must perform work which requires some advanced knowledge in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction. The law distinguishes from this requirement a general academic education or apprenticeship or other training. This classification applies to professions such as doctors, lawyers, certified public accountants, engineers, architects, and pharmacists, to cite a few examples. In addition to an advanced degree, there are other requirements for the exemption such as certain salary thresholds and the exercise of independent judgment. However, the recent case decided by the Third Circuit concentrated on the specialized knowledge requirement.

The case involved helicopter pilots employed by the Port Authority. Historically, the Port Authority had been treating the pilots as professional employees and, thus, had not been paying them overtime compensation. Two of the pilots sued the authority for the unpaid compensation. The authority argued that the pilots were not entitled to overtime compensation because they were professional employees and, thus, were exempt from the FLSA. The authority based its classification of the pilots upon certain prerequisites to the job such as holding a high school diploma and commercial and FAA certification and logging a certain number of flying hours, among other things.

However, the trial court held, and the Third Circuit agreed, that such requirements are not sufficient to classify the pilots as learned professionals.

Both the trial court and the Third Circuit found that none of the certifications that helicopter pilots were required to have constituted an academic degree. While the courts recognized that the pilots possess specialized knowledge and unique skills; they found that such knowledge and skills are not sufficient to classify the pilots as professional employees and exempt them from the overtime provisions of the Act. The courts reasoned that helicopter pilots are not required to spend a significant amount of time in a classroom in order to earn their certifications and that logging in-flight hours, in-flight instruction, and passing practical and written tests do not qualify as a “prolonged course of specialized *intellectual* instruction” for the purposes of the FLSA. Therefore the Third Circuit upheld the trial court’s decision that the pilots are “merely highly trained technicians” and are entitled to overtime compensation under the FLSA. This holding is consistent with the Department of Labor’s position that “aviation is not a ‘field of science or learning,’ and ... the knowledge required to be a pilot is not ‘customarily acquired by a prolonged course of specialized intellectual instruction.’” The employees were awarded two years of back pay for the misclassification.

While, at first glance, a case involving helicopter pilots may not seem to apply to most employers, upon closer look, this case underscores the importance of carefully examining employee classifications, especially those for which the employer has decided are exempt from the FLSA. Such an examination now could help the employer avoid costly backpay awards for misclassifications in the future.

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