



# Certain Motor Carrier Drivers are Entitled to FLSA Overtime Pay Notwithstanding General Exemption

## Client Advisories

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The U.S. Court of Appeals for the Third Circuit, which covers Pennsylvania, New Jersey, and Delaware, issued a ruling in McMaster v. Eastern Armored Services, Inc. (3d Cir. Mar. 11, 2015), which not only limits the applicability of an important overtime exemption for employees of motor carriers, but which may significantly complicate employers' use of the exemption. This ruling is significant because it was generally understood that pursuant to the federal Motor Carrier Act, drivers, driver's helpers, loaders, or mechanics whose duties affect the safety of operation of certain motor vehicles and who are employed by motor carriers, such as trucking companies, are generally exempt from the overtime requirements of the Fair Labor Standards Act (FLSA). However, the Court in McMaster found an exception to this rule for employees of such motor carriers whose work involves, in whole or in part, vehicles weighing less than 10,000 pounds. In so doing, the Court disagreed with other courts who have ruled differently when confronted with this issue.

The FLSA requires most employers to pay overtime wages to hourly employees. Drivers and certain other employees for "motor carriers" are generally exempt from this requirement under what is known as the Motor Carrier Act. Motor carriers are generally companies that provide motor vehicle transportation for compensation or which otherwise transport property by motor vehicle. The plaintiff in McMaster was a driver of an armored vehicle who regularly worked in excess of 40 hours. Her employer, Eastern Armored Services, Inc. (Eastern), did not pay her overtime pay based on the exemption found in the Motor Carrier Act. Approximately half of the plaintiff's schedule involved driving vehicles weighing less than 10,000 pounds.

The plaintiff, however, claimed that another law, known as the Corrections Act of 2008, created an exception to the Motor Carrier Act exemption. The Corrections Act provides that the overtime requirements of the FLSA apply to employees of a motor carrier whose job "in whole or in part" affects the safe operation of vehicles lighter than 10,000 pounds, except vehicles designed to transport hazardous materials or large numbers of passengers. Such employees must be paid overtime for hours worked over forty in a work week, pursuant to the FLSA.

In arguing that the overtime exemption still applied notwithstanding the Corrections Act of 2008, Eastern relied on other courts which had held the same. The reasoning of these courts was that the overtime exemption in the Motor Carrier Act should take precedence, and that it would otherwise be overly burdensome and confusing to regulate employers under this law when employees were driving “big trucks” and then regulate them under another law when driving trucks that might only weigh a pound less. Nonetheless, the Third Circuit rejected the reasoning of these courts given what it described as the clear and unambiguous language of the Corrections Act of 2008.

Based on this decision, employers in Pennsylvania, New Jersey, and Delaware who operate as motor carriers should look at all employees they presently consider exempt from overtime based on the Motor Carrier Act exemption, and determine whether the work of any of these employees is on vehicles weighing under 10,000 pounds and ensure they are receiving overtime pay as applicable. This may very well be a burdensome process but given this recent ruling, the risk of FLSA litigation and class action at that can be even more painful.

If you have questions or concerns related to this ruling or other labor and employment matters, please contact a member of Archer’s **Labor and Employment Department** in Haddonfield, N.J., at (856) 795-2121, in Flemington, N.J., at (908) 788-9700, in Princeton, N.J., at (609) 580-3700, in Hackensack, N.J., at (201) 342-6000, in Philadelphia, Pa., at (215) 963-3300, or in Wilmington, Del., at (302) 777-4350.

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