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Overtime Litigation: *RedZone Coil Tubing* Decision Highlights Importance of *Encino Motorcars* for the Oil and Gas Sector

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Last summer, the U.S. Supreme Court issued a historic ruling that benefits employers faced with the burden of proving that an employee or group of employees is exempt from the Fair Labor Standards Act's minimum wage and overtime rules. *Encino Motorcars, LLC v. Navarro*, ___ U.S. ___, 38 S.Ct. 1134 (2018). For decades, courts construed exemptions narrowly against the employer and in favor of the employee, but the Supreme Court held that rules of statutory interpretation require a "fair reading" of exemptions, leveling the playing field in overtime litigation in which many employers in the oil and gas sector have found themselves involved.

Guided by the *Encino Motorcars* decision, a federal court in Texas recently granted summary judgment to a coiled tubing services provider in an overtime lawsuit filed by its former employee. *Lansford v. RedZone Coil Tubing, LLC*, No MO:17-CV-0225-DC-RCG (W.D.Tex. Jul. 11, 2019). The plaintiff initially worked for RedZone Coil Tubing, now part of Nine Energy Service, as a coil tubing operator and later as a service supervisor. The company contended that as a service supervisor his primary duty was non-manual, to direct the work of two or more crew members, which combined with an annual compensation exceeding \$100,000 qualified for the highly compensated employee exemption. The plaintiff alleged that he performed manual labor, arguing that there was a factual dispute about whether his "primary duty" included office or non-manual work, a requirement for this exemption.

The court found that while the company did not dispute that plaintiff performed some manual duties, it presented "significant evidence" that manual labor was not his primary duty. The evidence included the plaintiff's testimony that his main job was to "act as a supervisor," to guide and train crew members, and to make sure they are doing their jobs. He also completed timesheets and field tickets for crew members to make sure they received proper pay, notified them of new jobs and what the jobs involved, led safety meetings, was the point of contact for the company's client representative, completed a variety of job-related paperwork, and provided some input to upper management about bonuses and disciplinary actions.

Additionally, the company provided a job description reflecting primarily non-manual, supervisory aspects of the job, the majority of which plaintiff accepted as accurate. The court also considered testimony from the company's leadership that the service supervisor's role is to manage and lead the crew and oversee the job. The plaintiff's application and resume submitted to another oilfield services company after leaving RedZone further undermined his claim in that he described his duties as service supervisor consistently with the job description and company's testimony. Sworn statements from plaintiff's former co-workers were given "little weight" because they failed to show that the co-workers had any personal knowledge of the plaintiff's day-to-day duties. Finding no material factual dispute that plaintiff earned at least \$100,000 annually, regularly and customarily directed the work of at least two or more full-time employees, and primarily performed non-manual duties, the court ruled in favor of the company.

While the company presented significant evidence to support the exemption at issue, a level playing field post-*Encino Motorcars* contributed to the result as well. With the prior "narrow" reading of exemption defenses a thing of the past, employers aiming to prove exemptions now may have a "fair" shot. This case also highlights

the types of evidence that can prove valuable in supporting an exempt classification when challenged, which should be part of the equation as an employer is evaluating how to properly classify employees for wage and hour purposes.