

A Sustainable Workforce Starts With You

Home ([/](#)) > [\\$1.8 Million Awarded to Colorado Workers in Overtime Lawsuit Settlement](#)

\$1.8 Million Awarded to Colorado Workers in Overtime Lawsuit Settlement (<http://constructioncitizen.com/blog/18-million-awarded-colorado-workers-overtime-lawsuit-settlement/1710181>)

[1]

by *Scott Braddock* (<http://constructioncitizen.com/users/scott-braddock>) [2] | October 18, 2017

 (<http://constructioncitizen.com/print/2333>) [3]

in ([https://www.linkedin.com/shareArticle?
mini=true&url=http%3A%2F%2Fconstructioncitizen.com%2Fnode%2F2333](https://www.linkedin.com/shareArticle?mini=true&url=http%3A%2F%2Fconstructioncitizen.com%2Fnode%2F2333)) [6]

 ([https://twitter.com/home?
status=http%3A%2F%2Fconstructioncitizen.com%2Fnode%2F2333](https://twitter.com/home?status=http%3A%2F%2Fconstructioncitizen.com%2Fnode%2F2333)) [5]

f ([https://www.facebook.com/sharer/sharer.php?
u=http%3A%2F%2Fconstructioncitizen.com%2Fnode%2F2333](https://www.facebook.com/sharer/sharer.php?u=http%3A%2F%2Fconstructioncitizen.com%2Fnode%2F2333)) [4]

Compensation (<http://constructioncitizen.com/categories/renewing-workforce/compensation>) [7]

Attorneys for workers who were denied overtime pay because of the way they were compensated by a major Canadian oil and gas company have settled a lawsuit in Colorado for nearly \$2 million. Attorneys' fees of \$693,000 were also approved by a federal judge in Denver.

The workers, who were measuring while drilling as part of the fracking process on wells north and east of Denver, sued under the Fair Labor Standards Act claiming they were legally entitled to overtime when the company in question, Ensign Energy Services, was classifying them as exempt from overtime. There were roughly 60 people doing this work within three years of the legal filings. Of those, 50 percent opted into the collective action lawsuit. That's a fairly high percentage to opt into the lawsuit under the FLSA, according to legal experts. Usually, the number is more like 10 percent.

"They were paying these guys a salary, which fits under the FLSA," explained plaintiffs' attorney James Fosnaught

(<http://www.mountainlawfirm.com/attorneys/james-f-fosnaught/>) [8] at the law firm

of Karp Neu Hanlon, P.C. (<http://www.mountainlawfirm.com/>) [9] in Glenwood Springs, Colorado. "These guys did not meet the exemption under the FLSA to be exempt from overtime," he said.

Sander Karp (<http://www.mountainlawfirm.com/attorneys/sander-n-karp/>) [10], the lead attorney for the plaintiffs, is a well-known figure in labor and civil rights law who considers the two specializations closely related. Karp believes justice for workers is one of the most important civil rights issues. Karp said that in this instance, it was a case of keeping the company honest. "There are a lot of cases where employers have attempted to use this method of payment," Karp said. "Now whether they had the specific intent of avoiding overtime pay, I don't know."

There was no comment from Ensign, but Karp said the company made a good faith effort to settle the case, which took roughly one year. "I thought that Ensign was fairly cooperative in getting the case resolved," Karp said.

According to the Department of Labor, "Unless exempt, employees covered by the Act (the FLSA) must receive overtime pay for hours worked over 40 in a workweek at a rate not less than time and one-half their regular rates of pay. There is no limit in the Act on the number of hours employees aged 16 and older may work in any workweek."

The FLSA "applies on a workweek basis," per the DOL website (https://www.dol.gov/whd/overtime_pay.htm) [11]: "An employee's workweek is a fixed and regularly recurring period of 168 hours — seven consecutive 24-hour periods. It need not coincide with the calendar week, but may begin on any day and at any hour of the day. Different workweeks may be established for different employees or groups of employees. Averaging of hours over two or more weeks is not permitted. Normally, overtime pay earned in a particular workweek must be paid on the regular pay day for the pay period in which the wages were earned."

"It is always in the economic interest of the company to pay less," Fosnaught said, "so they will set up systems to make it appear as if they are an independent contractor."



“It still comes down to whether they meet the qualifications for the test as to whether they’re exempt,” he said. “The whole purpose of the act (the FLSA) is pro-capitalism,” Fosnaught said. “In many ways it prevents unfair competition from employers who are not paying their employees properly.”

Site and all content © 2017 Construction Citizen

Source URL: <http://constructioncitizen.com/blog/18-million-awarded-colorado-workers-overtime-lawsuit-settlement/1710181>
(<http://constructioncitizen.com/blog/18-million-awarded-colorado-workers-overtime-lawsuit-settlement/1710181>)

Links:

- [1] <http://constructioncitizen.com/blog/18-million-awarded-colorado-workers-overtime-lawsuit-settlement/1710181>
- [2] <http://constructioncitizen.com/users/scott-braddock>
- [3] <http://constructioncitizen.com/print/2333>
- [4] <https://www.facebook.com/sharer/sharer.php?u=http%3A%2F%2Fconstructioncitizen.com%2Fnode%2F2333>
- [5] <https://twitter.com/home?status=http%3A%2F%2Fconstructioncitizen.com%2Fnode%2F2333>
- [6] <https://www.linkedin.com/shareArticle?mini=true&url=http%3A%2F%2Fconstructioncitizen.com%2Fnode%2F2333>
- [7] <http://constructioncitizen.com/categories/renewing-workforce/compensation>
- [8] <http://www.mountainlawfirm.com/attorneys/james-f-fosnaught/>
- [9] <http://www.mountainlawfirm.com/>
- [10] <http://www.mountainlawfirm.com/attorneys/sander-n-karp/>
- [11] https://www.dol.gov/whd/overtime_pay.htm