

Fourth Circuit Holds Racing Officials Are Not Exempt Employees

In a case successfully litigated on appeal by Martin & Seibert, L.C., the U.S. Court of Appeals for the Fourth Circuit has permitted four former employees of Charles Town Racing and Slots to pursue their Fair Labor Standards Act claims.

At issue in *Desmond v. PNGI Charles Town Gaming, LLC*, (No. 08-1216, 4th Cir., decided April 30, 2009), was whether horse racing officials were administrative positions thus exempt under FLSA. The affected employees worked as placing judge, paddock judge, horse identifier, and clerk of scales during horse races, collectively referred to as racing officials. The plaintiffs alleged they were improperly denied overtime pay as required by FLSA.

The District Court granted summary judgment to Charles Town Gaming finding the position of racing official met the requirement for an administrative exemption because their jobs were non-clerical, non-manual work related to the production of live horse races and as such were “directly related to the management or general business operations” of the racetrack. The District Court also held the racing officials exercised discretion and independent judgment such as correctly identifying the order of finish of the horses and the duty to insure compliance with regulations relating to jockeys and horses which the Court found were “indispensable” to gaming operations at the track.

The Fourth Circuit rejected these arguments stating: “Looking to the ‘significance’ or ‘indispensability’ of a position within a company’s business operations diverts attention from the requisite inquiry. Both the FLSA and its regulations make clear that an employee is exempt based on the *type* of work performed by that individual, not whether business practice or applicable law require a particular position to exist.” Drawing an analogy to a manufacturing production line, the Court held that while their job roles were necessary for live horse racing, their jobs were not related to management of general business functions of the company. As such, the former employees were not exempt employees.

Summary judgment was therefore reversed and the case remanded for further proceedings.