
**Federal Court Report**

**Evidence from Portion of Collective Class Sufficiently Proves Claims for All**

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By Michael S. Kernstock - Peters, Revnew, Kappenman & Anderson P.A.
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A district court did not err when it prohibited an attack on the plaintiffs' application of sample evidence to an entire wage and hour collective class as opposed to evidence necessary for judgments for individual plaintiffs, the 6th U.S. Circuit Court of Appeals decided.

In 2008, the plaintiffs, a group of 293 cable technicians, sued FTS and UniTek under the Fair Labor Standards Act (FLSA), claiming they were inaccurately paid for overtime worked. In 2011, a jury found in the plaintiffs' favor.

In 2016, the 6th Circuit decided on appeal that the district court erred in calculating the plaintiffs' damages by applying the wrong multiplier and inaccurately calculating their hourly rates, failing to reflect the actual hours they worked. The 6th Circuit remanded the case with specific instructions for the district court to recalculate the plaintiffs' damages with the correct multiplier and hourly rate. The U.S. Supreme Court vacated the 6th Circuit's judgment following its decision in *Tyson Foods, Inc. v. Bouaphakeo*, 577 U.S. 442 (2016). Upon further review, the 6th Circuit determined *Tyson* supported its original decision and entered a substantially similar judgment to its original order.

When the case returned to the district court, FTS and UniTek raised several new arguments unrelated to correcting the multiplier and hourly rate issues. Instead, they argued the district court inaccurately relied on group evidence to prove individual plaintiff's claims and mistakenly entered a single judgment rather than judgments for each individual plaintiff. The district court barred FTS and UniTek from raising these arguments and entered judgment in favor of the plaintiffs.

FTS and UniTek appealed to the 6th Circuit, arguing the district court erred by not addressing their new arguments. The 6th Circuit established that the district court properly denied FTS and UniTek's new arguments and correctly limited its review to only those issues instructed by the 6th Circuit, which did not include these arguments. An appellate court's remand instructions to a district court can be either general or limited in scope. If the instructions are limited, meaning they provide particular directions on exactly how the lower court should proceed, the district court may address only the issues identified and may not expand on others. Here, the 6th Circuit told the district court to address issues only related to the multiplier and hourly rate used to calculate the plaintiffs' damages.

By striking down FTS and UniTek's new arguments, the district court's original holdings stand. Effectively, the 6th Circuit's decision allows a collective group of employees to introduce a sample of evidence from its entire class, which a court may then apply to the entire class. In this case, the court applied evidence from only 17 technicians to determine damages for the entire class of 293 technicians. Additionally, this holding means that a district court may enter a single judgment for the entire class rather than issuing individualized judgments for each plaintiff.

*Monroe v. FTS USA LLC*, 6th Cir., Nos. 20-6289/6347 (Nov. 8, 2021), *cert. denied* (March 7, 2022).

**Takeaway:** Employers should ensure exempt employees are properly classified under the FLSA. Similarly, employers should ensure nonexempt employees are accurately paid for their work, including overtime. Failure to do so may result in damages to a larger employee group, even if only a sample of employees demonstrates damages.

*Michael S. Kernstock is an attorney with* [*Peters, Revnew, Kappenman & Anderson P.A.*](https://worklaw.com/firms/peters-revnew-kappenman-anderson)*, the Worklaw® Network member firm in Minneapolis.*