

INSIGHTS

Supreme Court Issues Opinion Reinstating Important Tool for Employers to Defeat FLSA Collective Actions

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In a major victory for employers, the U.S. Supreme Court issued an opinion today confirming employers' ability to make an "offer of judgment" to named plaintiffs who are pursuing collective actions under the Fair Labor Standards Act (FLSA).

In *Genesis HealthCare Corp. v. Symczyk*, U.S. No. 11-1059 (Apr. 16, 2013), the Court held that when an employer's offer of judgment pursuant to Federal Rule of Civil Procedure 68 fully satisfies the named plaintiff's FLSA claims, and no other plaintiffs have opted in, the claims become moot and the court must dismiss the entire lawsuit for lack of subject matter jurisdiction.

Obviously, the ability to make an offer of judgment to named plaintiffs for the purpose of defeating a class action before it gains traction is a tremendous defensive tool for employers. *Genesis HealthCare* effectively overrules a recent decision from the Fifth Circuit Court of Appeals, which precluded the use of Rule 68 offers of judgment to "pick off" named plaintiffs early on in FLSA collective actions. See *Sandoz v. Cingular Wireless*, 553 F.3d 913 (5th Cir. 2008).