

Court upholds overtime exemption for all seamen, not just pilots and captains

The Fair Labor Standards Act (FLSA) includes exemptions for certain professions, including one for commercial seaman. Some seafaring workers have recently tried to narrow the exemption by arguing that it only applies to employees who actively navigate vessels. That argument has now been shot down.

Recent case: Vandaven worked as a tankerman for Canal Barge and sued his employer for alleged unpaid overtime due under the FLSA. He asked for collective-action status.

Canal Barge is a marine transport company that ships hazardous liquid cargo on inland waterways and the Gulf Intracoastal Waterway. Canal Barge typically transports such liquid cargo by using a tugboat that pushes two barges. Some of the varieties of hazardous liquid cargo must be temperature-controlled while in transit. Vessel-based tankermen such as Vandaven are assigned to a particular vessel for 14-day hitches, and they arrive at the assigned vessels from their homes via rental cars or taxis.

Canal Barge said Vandaven was a “deckhand/tankerman,” explaining that Canal Barge’s vessel personnel “generally begin their career as a deckhand, gain additional experience and training to promote into a tankerman position, and may ultimately promote into an engineer, pilot, or captain position.” Vandaven argued that only those who actively pilot the vessels while they are on the water qualify as seamen. The court disagreed, reasoning that this would mean that even a sailor who worked as the ship’s cook and was out to sea for months would not qualify as a seaman. It said the employer was entitled to the exemption and dismissed the case. (*Johnson v. Canal Barge*, No. 3:12-CV-00037, SD TX, 2016)