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## WLF Asks Appeals Court to Overturn Decision Exposing Employers to Massive Back-Pay Liability

*(Newton v. Parker Drilling Management Services, Inc.)*

**“By overturning a half-century of settled law regarding wages for ‘sleep time,’ the Ninth Circuit has exposed the oil and gas industry to massive retroactive liability. Elementary considerations of fairness dictate that employers should have an opportunity to know what the law is and to conform their conduct accordingly.”**  
—Richard Samp, WLF Chief Counsel

**WASHINGTON, DC**—The Washington Legal Foundation (WLF) late yesterday urged the U.S. Court of Appeals for the Ninth Circuit in San Francisco to reconsider a wage-and-hour ruling that could result in oil and gas companies facing hundreds of millions of dollars in back-pay liability. In a brief in support of a rehearing petition filed in *Newton v. Parker Drilling Management Services, Inc.*, WLF argues that a Ninth Circuit panel improperly rejected a half century of federal law governing the wages paid to employees stationed on off-shore oil platforms.

Because of the remote location of oil platforms, employees generally remain on the platforms for several weeks at a time, even though they perform work at most 12 hours per day. Employees receive premium wages for the hours worked, but they are not paid for the hours spent sleeping and resting on oil platforms. This wage-and-hour scheme fully accords with federal labor law; and a law passed by Congress in the 1950s, the Outer Continental Shelf Lands Act (OCSLA), states that federal law applies to activities on oil platforms. Federal courts in Texas and Louisiana (whose coasts are home to most of the nation’s oil platforms) have long interpreted OCSLA as barring application of state law except where there are gaps in federal law that are in need of filling.

But earlier this year a three-judge Ninth Circuit panel held, in a case involving an oil platform off the coast of California, that California wage-and-hour laws apply and that California requires employees to be paid 24 hours per day if their employer does not permit them to return home at the end of their shifts. WLF’s brief argues that the panel’s ruling misinterprets OCSLA. More importantly, WLF argues, the panel improperly exposes employers to massive retroactive liability simply for paying its employees in reasonable reliance on the law as it was then understood. WLF notes that employers would not have paid premium wages for hours worked if they had also been required to pay wages for sleep and rest time.

*Celebrating its 41st year, WLF is America’s premier public-interest law firm and policy center advocating for free-market principles, limited government, individual liberty, and the rule of law.*

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