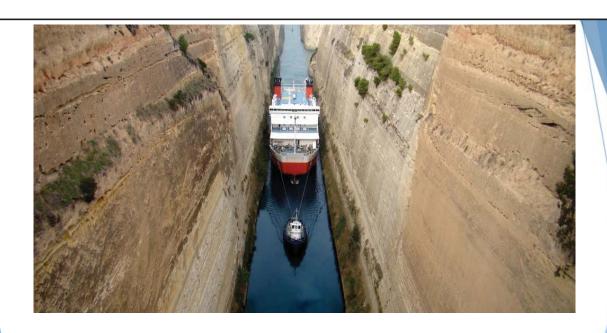
# Wage and Hour Update

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Narrow Construction of FLSA Exemptions:

Encino Motorcars, LLC v. Navarro, 138 S.Ct. 1134 (2018)

## Narrow Construction of FLSA Exemptions:

Encino Motorcars, LLC v. Navarro, 138 S.Ct. 1134 (2018)

#### 5-4 decision

#### Majority (J. Thomas)

- ► No 'textual indication'
- ▶ Flawed premise: FLSA pursues remedial purpose at all costs
- ► Fair reading

#### Dissent (J. Ginsburg)

- ► Overturns 70-year old precedent
- ► Court "rejects" without acknowledging

Practical effect?



## H. R. 165 Spending Bill – March 23, 2018

- ► Resolved circuit split and court disagreement with DOL regulations
- ► Tip-credit, Tip-pool requirements
- ► Amendment: Even employers that do not take a "tip-credit"—may not require its employees to share their tips with the employer, including its managers or supervisors.
- ▶ But for employers that pay the full minimum wage, forced tip-sharing with non-tipped employees is permissible so long as those individuals are not supervisors or managers.





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First appeared as part of the conference materials for the  $26^{\rm th}$  Annual Labor and Employment Law Conference session "Wage and Hour Update"