

Wage and Hour Update

Aaron Johnson, Equal Justice Center
Daniel A. Verrett, Moreland Verrett, P.C.



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?



2018 Amendment to FLSA - Tipped Employees

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.

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](https://utcle.org/elibrary)

Title search: Wage and Hour Update

First appeared as part of the conference materials for the 26th Annual Labor and Employment Law Conference session "Wage and Hour Update"