

Sixth Circuit Holds That Worm Farmers Exempt from Overtime Requirements of FLSA

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The Fair Labor Standards Act exempts “employee[s] employed in agriculture” from its overtime requirement. Recently, the Court of Appeals for the Sixth Circuit applied this exemption to the operations of an employer who “moved to the United States from his native France in 1992 to grow worms,” and affirmed the district court’s decision holding that workers at Defendant’s Silver Bait worm farming operation were exempt from overtime under 29 U.S.C. § 213(b)(12). *Barks v. Silver Bait, LLC*, 2015 U.S. App. LEXIS 17310 (6th Cir. 2015).

As the parties agreed that Silver Bait was “engaged in the business of growing and raising worms” and that the Plaintiffs were engaged to grow and raise worms, the sole disputed issue was whether worms fell within the exemption’s definitional phrase “farming in all its branches.” Relying on the ordinary meaning of “agriculture,” illustrative examples provided in DOL guidance, the court concluded that “although not a specifically enumerated farming activity, there is little to distinguish Silver Bait from a traditional farm other than the unfamiliarity of worm farming. We agree with the Department [of Labor] and the district court that the growing and raising of worms is a form of farming within the FLSA’s agricultural exemption.” The Court rejected a rigid view of the exemption offered by Plaintiffs which would have limited the scope of the agriculture exemption to the production of only certain types of animals enumerated in the statute such as hogs or cattle.

Employers in the agricultural industry, as in all industries, must understand and properly apply applicable state and federal wage-and-hour laws, including the highly technical agricultural exemption.

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