Litigation Insights

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—TOP THREE HIGHLIGHTS

The following three summaries are this month's Editor's Top Picks from the dozens of decisions added to Moore's Federal Practice and Procedure.

APPEALS

Extension of Time to Appeal

Mann v. Norfolk S. Ry. Co. (In re E. Palestine Train Derailment)

158 F.4th 704, 2025 U.S. App. LEXIS 29014 (6th Cir. Nov. 5, 2025)

The Sixth Circuit holds that district courts lack jurisdiction to grant untimely motions to extend the time for appeal.

JUMP TO SUMMARY

ATTORNEY FEES

Challenge to Immigration Detention

Daley v. Ceja

158 F.4th 1152, 2025 U.S. App. LEXIS 28669 (10th Cir. Nov. 3, 2025).

The Tenth Circuit holds that a habeas corpus action challenging immigration detention is a "civil action" under the Equal Access to Justice Act, so an award of attorney's fees for prevailing against the government is available in such an action

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CLASS ACTIONS

Class Settlement

Lundeen v. 10 W. Ferry St. Operations LLC

156 F.4th 332, 2025 U.S. App. LEXIS 26901 (3d Cir. Oct. 16, 2025)

The Third Circuit holds that the Fair Labor Standards Act's opt-in requirement does not prohibit named plaintiffs in a class action from settling prospective class members' unasserted claims under the Act as part of an opt-out class settlement under Rule 23(b)(3).

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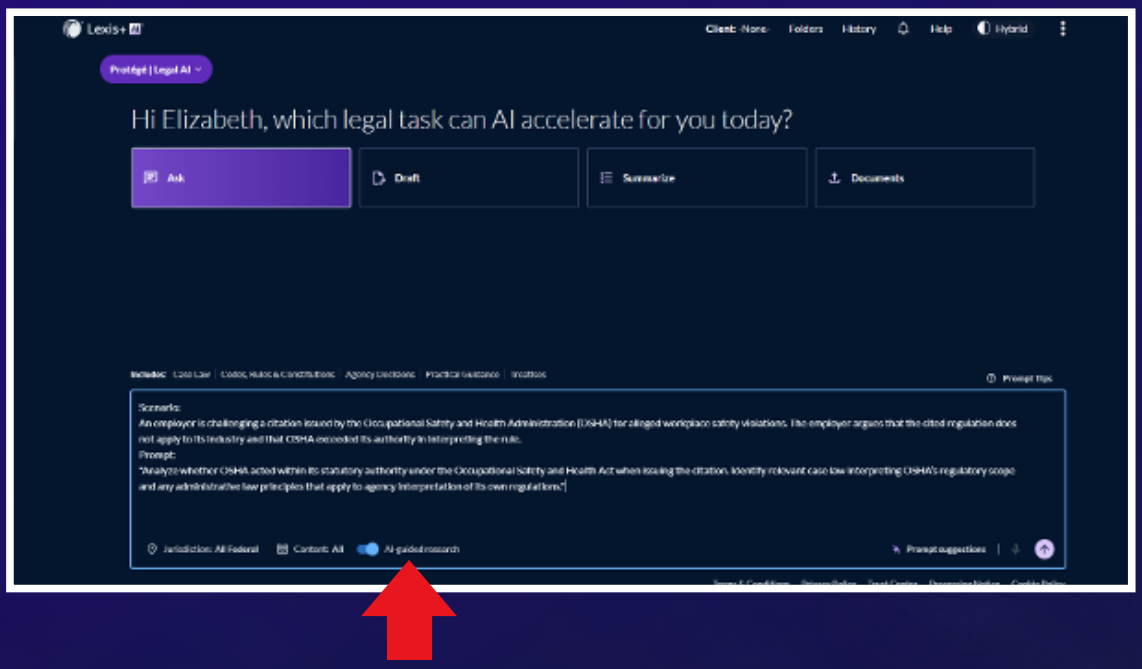

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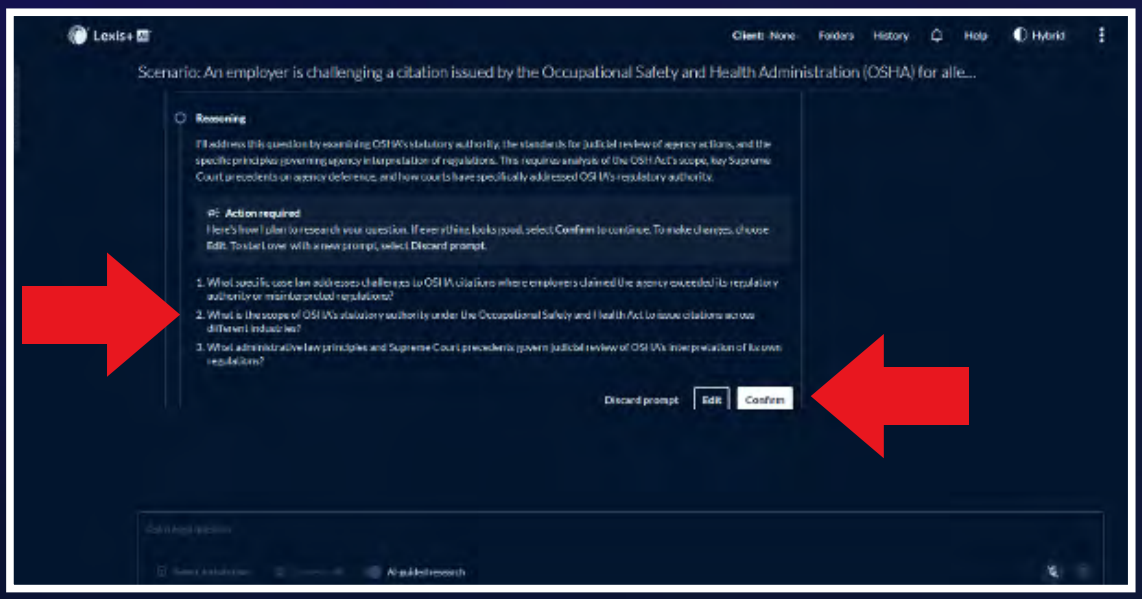

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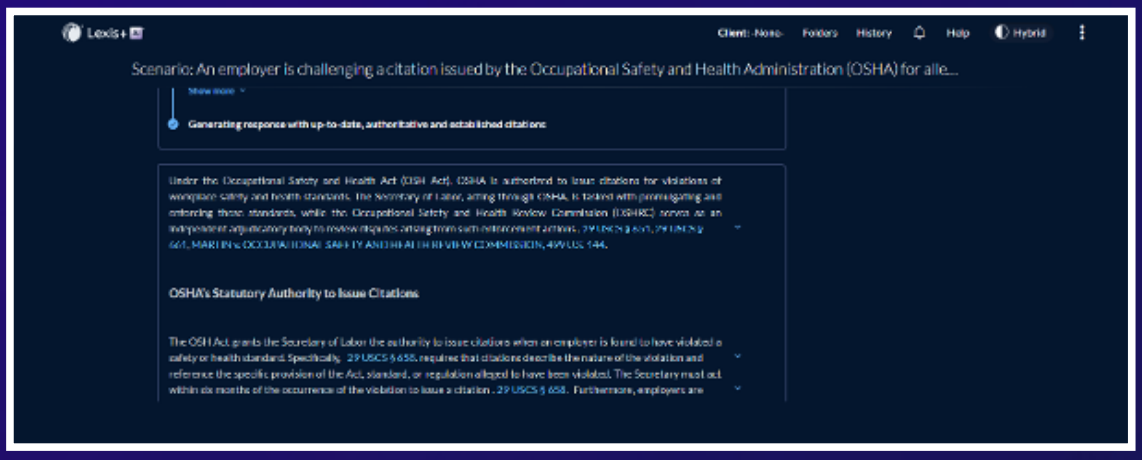

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AI-guided research allows for control and nuance over the preliminary outputs in a way that previous AI research did not permit. Enjoy and happy researching!

APPEALS

Extension of Time to Appeal

Mann v. Norfolk S. Ry. Co. (In re E. Palestine Train Derailment)
158 F.4th 704, 2025 U.S. App. LEXIS 29014 (6th Cir. Nov. 5, 2025)

The Sixth Circuit holds that district courts lack jurisdiction to grant untimely motions to extend the time for appeal.

Background. After the district court approved a proposed settlement of this class action, five class members timely appealed to the Sixth Circuit. The district court issued an order requiring the objectors to post an appeal bond of $850,000 [see Fed. R. App. P. 7].

Instead of posting the appeal bond, the objectors filed a motion, in their pending appeal, to eliminate or reduce the bond. However, the objectors urged the Sixth Circuit motions panel to construe the motion as a request for review of the merits of the appeal, not a stay of the bond order. Accordingly, the motions panel did not stay the bond order. The motions panel explained that even if the objectors had asked for a stay, they would not have qualified for one, in part because they had not shown that they faced irreparable harm, since they "could still obtain review of the bond order by filing a direct appeal from that order."

The same day the motions panel issued its order, the objectors moved in the district court for an order extending the time to appeal the bond order. The district court denied that motion on timeliness grounds. The bond order had been entered on January 16, 2025, which meant that the original 30-day deadline to appeal (after accounting for weekends and holidays) was February 18 [see Fed. R. App. P. 4(a)(1)(A), 26(a)(1)(C)]. And the objectors had 30 days after that deadline—until March 20—to request an extension of the time to appeal [see Fed. R. App. P. 4(a)(5)(A)]. But the objectors filed their motion to extend one day late, on March 21.

The objectors timely appealed the district court's order denying the motion to extend the time to appeal the bond order. In the meantime, the plaintiffs moved the court of appeals to dismiss the objectors' original appeal of the class settlement for failure to post the appeal bond. The Sixth Circuit merits panel dismissed the objectors' appeal from the district court's ruling on the motion to extend the appeal deadline, and the panel granted the motion to dismiss the objectors' appeal of the class settlement.

Deadline to Request Extension of Appeal Period Is Jurisdictional Limit. The Sixth Circuit panel first addressed the jurisdictional nature of the deadline to request an extension of the appeal period. The court explained that Congress has set mandatory and jurisdictional statutory deadlines for appeals [see Bowles v. Russell, 551 U.S. 205, 209, 127 S. Ct. 2360, 168 L. Ed. 2d 96 (2007)]. Under 28 U.S.C. § 2107, a notice of appeal in a civil case typically must be filed within 30 days after the entry of a judgment, order, or decree, although more time is available in a case involving the government, and the appeal period may be reopened if notice of entry of the appealable decision has been delayed [28 U.S.C. § 2107(a), (b), (c)]. Also, a district court may extend the time for appeal on a showing of excusable neglect or good cause, provided that the litigant moves for an extension "not later than 30 days after the expiration of the time otherwise set for bringing appeal" [28 U.S.C. § 2107(c)].

The Sixth Circuit emphasized that since the foregoing deadlines are imposed by statute, they are jurisdictional, and "we may not use our general equitable power to add to the list of enumerated exceptions" [see Henderson ex rel. Henderson v. Shinseki, 562 U.S. 428, 433, 131 S. Ct. 1197, 179 L. Ed. 2d 159 (2011)].

The court of appeals noted that the statutory deadlines are codified in the Federal Rules of Appellate Procedure. Tracking the text of § 2107(a), Appellate Rule 4 first provides the default rule that parties in a civil case must file a notice of appeal "within 30 days after entry of the judgment or order appealed from" [Fed. R. App. P. 4(a)(1)(A)]. Then, like § 2107(c), the rule permits the district court to grant a motion to extend the time to file a notice of appeal if the movant (1) requests an extension "no later than 30 days after the time prescribed by this Rule 4(a) expires," and (2) "shows excusable neglect or good cause" [Fed. R. App. P. 4(a)(5)(A)]. If the movant makes such a showing, the district court may extend the window to appeal by either 30 days from the original deadline or 14 days from its order, whichever is later [Fed. R. App. P. 4(a)(5)(C)].

The Sixth Circuit stressed that the deadlines imposed by Appellate Rule 4(a)(1) and (5)(a) are also jurisdictional. The Supreme Court has explained that a time limit prescribed only in a court-made rule is usually a mandatory claim-processing rule, not a jurisdictional deadline [Hamer v. Neighborhood Hous. Servs., 583 U.S. 17, 19, 138 S. Ct. 13, 199 L. Ed. 2d 249 (2017)]. But if a rule's time limit implements an appeal deadline created by Congress, it is jurisdictional [see Tennial v. REI Nation, LLC (In re Tennial), 978 F.3d 1022, 1026 (6th Cir. 2020)].

Application to Present Case. Applying the foregoing principles to the present case, the Sixth Circuit panel concluded that the late filing of the motion to extend the time to appeal deprived the district court of the power to grant the motion. Section 2107(c) requires parties to move for an extension no later than 30 days after the deadline to appeal and to show good cause or excusable neglect, and Appellate Rule 4(a)(5)(A) operationalizes that deadline by requiring the same. The court of appeals reasoned that because Rule 4(a)(5)(A) imposes a specific appeal deadline that is set forth in a statute, it is equally as mandatory and jurisdictional as the statute [see Bowles v. Russell, 551 U.S. 205, 213, 127 S. Ct. 2360, 168 L. Ed. 2d 96 (2007); Ultimate Appliance CC v. Kirby Co., 601 F.3d 414, 415 (6th Cir. 2010)].

In this case, it was undisputed that the objectors' motion to extend their time to appeal the bond order had been one day late. Since the deadlines to appeal are jurisdictional, the district court lacked the power to extend their time, whether or not the objectors' lateness was excusable. The Sixth Circuit concluded, therefore, that the district court had no option but to deny the objectors' requested extension for lack of subject-matter jurisdiction.

The court of appeals rejected an argument that its previous statement that the objectors "could still obtain review of the bond order by filing a direct appeal" somehow conferred jurisdiction on the lower court to grant a late motion to extend the time for appeal. The court explained that that statement—made when denying a motion to stay the lower court's bond order—could not override mandatory statutory limits on the district court's jurisdiction. "Since section 2107 and Rule 4(a)(5)(A) limit the district court's jurisdiction to timely motions, the district court would lack power to follow any contrary mandate."

Because the objectors' notice of appeal from the bond order was untimely, and the deadline could not be extended, the Sixth Circuit dismissed that appeal for lack of jurisdiction.

Dismissal of Appeal From Class Settlement for Failure to Post Bond. <D>The court of appeals next turned to the objectors' original appeal of the class settlement. Failure to execute a bond can result in dismissal [see Powers v. Citizens Union Nat. Bank & Tr. Co., 329 F.2d 507, 508–509 (6th Cir. 1964) (per curiam)]. To avoid dismissal, a party contesting the validity of an appeal bond must either seek a stay in the district court or make a good-faith proffer of a lesser amount [In re Cardizem CD Antitrust Litig., 391 F.3d 812, 818 (6th Cir. 2004)]. More than eight months had passed, and the objectors had posted no bond. To determine whether to dismiss, a court looks to

factors such as (1) the prejudice to the other parties, (2) the demonstrated justification for the failure to post the bond, and (3) the merits of the underlying appeal [In re Cardizem CD Antitrust Litig., 391 F.3d 812, 818 (6th Cir. 2004)]. Finding that none of these factors favored the objectors in this case, the court of appeals dismissed their appeal of the class settlement.

ATTORNEY FEES

Challenge to Immigration Detention

Daley v. Ceja

158 F.4th 1152, 2025 U.S. App. LEXIS 28669 (10th Cir. Nov. 3, 2025).

The Tenth Circuit holds that a habeas corpus action challenging immigration detention is a "civil action" under the Equal Access to Justice Act, so an award of attorney's fees for prevailing against the government is available in such an action

Facts and Procedural Background. Eva Daley was a native of Guatemala who entered the United States without legal permission at age 12. She served several years in prison as an adult, and she was taken into Immigration and Customs Enforcement (ICE) custody after her release pending removal proceedings (more commonly known as "deportation"). After over a year in custody with no apparent activity on her claim for asylum, Daley filed a petition for habeas corpus to challenge her detention. The district court granted relief and ordered a bond hearing. An immigration judge held the hearing and released Daley on a $1,500 bond after she had spent 450 days in custody. As the prevailing party, Daley then returned to the district court and moved for attorney's fees under the Equal Access to Justice Act (EAJA). The court awarded $18,553.92 in costs and attorney's fees. The government appealed the award to the Tenth Circuit.

Purpose and Scope of EAJA. The common-law "American Rule" is that each party must pay its own attorney's fees, regardless of which side wins the litigation [e.g., Alyeska Pipeline Serv. Co. v. Wilderness Soc'y, 421 U.S. 240, 263–271, 95 S. Ct. 1612, 44 L. Ed. 2d 141 (1975) (reaffirming American Rule and rejecting arguments for adoption of "loser pays" approach followed in other countries)]. Congress has therefore seen fit to adopt hundreds of statutes that vary from the common-law rule and permit an award of attorney's fees in certain kinds of federal litigation [e.g., Lackey v. Stinnie, 604 U.S. 192, 145 S. Ct. 659, 221 L. Ed. 2d 63 (2025) (applying 42 U.S.C. § 1983, which governs fee-shifting in civil-rights litigation)]. For many years, no such statute applied to litigation in which the federal government was a party, so sovereign immunity precluded the imposition of any liability on the government for costs or attorney's fees. At the same time, however, the government could collect awards from private litigants in many circumstances. This inequity in suits by or against the government was rectified by the adoption of the EAJA, which waives immunity and subjects the government to fee liability to a prevailing party when the government's position in the litigation lacks substantial justification.

The EAJA is not applicable to all cases in which the government is a party. Instead, its primary fee provision authorizes an award against the government "in any civil action (other than cases sounding in tort)" [28 U.S.C. § 2412(d)]. That phrase immediately imposes two threshold limitations of the EAJA: (1) the proceeding must be a "civil action;" and (2) it must not be one under the Federal Tort Claims Act. Only the first limitation was at issue in this case. As the Tenth Circuit noted, the appeal raised a "single question": Is a habeas corpus action challenging immigration detention a "civil action" under the EAJA?

Meaning of "Civil Action". The Tenth Circuit began its analysis by briefly summarizing the history of the phrase "civil action," which predates the founding of the country and has its roots in English common law. Under that tradition, a "civil action" was one that sought redress for an individual's private injury or vindication of a private right. By contrast, a "public wrong" damaged the community as a whole and was redressed through criminal proceedings. State and federal courts in America adopted this same civil/criminal dichotomy in their proceedings. Legal commentators and dictionaries did as well. This culminated in the adoption of the federal rules, which

unified the law, equity, and admiralty dockets of federal courts and provided that there is one form of action, the "civil action" [Fed. R. Civ. P. 2]. Given this history, the Tenth Circuit concluded that "[a]s used in the EAJA, 'civil action' unambiguously refers to any legal action brought to enforce a private or civil right, or to redress a private wrong."

Habeas Corpus Proceeding Challenging Immigration Detention Is "Civil Action". Given this definition, the Tenth Circuit concluded that because the violation of personal liberty through unlawful immigration detention is a private wrong, a habeas corpus action to challenge that detention is a "civil action" for purposes of the EAJA. The Supreme Court has often noted that habeas is civil in character [e.g., Ex parte Tom Tong, 108 U.S. 556, 559, 2 S. Ct. 871, 27 L. Ed. 826 (1883) ("writ of habeas corpus is the remedy which the law gives for the enforcement of the civil right of personal liberty")]. Moreover, every circuit that existed when the EAJA was adopted had held that habeas was a civil proceeding. Although some aspects of civil practice may not apply in habeas proceedings [see Harris v. Nelson, 394 U.S. 286, 292–298, 89 S. Ct. 1082, 22 L. Ed. 2d 281 (1969) (interrogatories and other discovery devices do not apply in habeas actions)], those limitations do not affect the fundamental question whether the action is civil in nature.

Criminal Detention Distinguished. The Tenth Circuit then noted that circuit precedent already established that a habeas corpus action challenging criminal detention is not a "civil action" under the EAJA [Ewing v. Rodgers, 826 F.2d 967, 971 (10th Cir. 1987)]. But that holding did not compel a similar result in this case, because it simply requires the court to consider the civil or criminal nature of the underlying proceeding. Criminal detention implicates an underlying criminal judgment or proceeding, so a habeas action challenging the resulting detention is not a civil action.

Immigration Proceedings Are Civil in Nature. The Tenth Circuit then noted that immigration detention is an aspect of the deportation process, and the Supreme Court has stated that a deportation proceeding is a "purely civil action" [INS v. Lopez-Mendoza, 468 U.S. 1032, 1038, 104 S. Ct. 3479, 82 L. Ed. 2d 778 (1984)]. Because both habeas and the underlying immigration proceedings are civil, habeas actions challenging immigration detention are also civil in nature. The court therefore concluded: "under the EAJA, habeas actions challenging immigration detention are unambiguously 'civil actions.' The EAJA authorizes the award of attorneys' fees to petitioners who prevail against the Government in such actions."

Result Consistent With Purposes of EAJA. The Tenth Circuit then noted that its holding in this case was consistent with the statutory purpose of the EAJA to ensure that parties with limited resources are able to hire counsel to challenge unreasonable government action. As the court put it, "The availability of EAJA fees in habeas actions challenging immigration detention . . . plays an important role in lowering financial barriers to filing such actions."

Government's Counterarguments Rejected. Finally, the Tenth Circuit addressed and rejected the arguments of the government for a different result in this case. First and foremost, the court rejected the argument that a habeas proceeding is a "hybrid" action that is neither civil nor criminal in nature, regardless of the nature of the detention challenged. The Fourth and Fifth Circuits have essentially adopted this approach [Barco v. Witte, 65 F.4th 782, 784–785 (5th Cir. 2023); Obando-Segura v. Garland, 999 F.3d 190, 191, 197 (4th Cir. 2021)], but the Tenth Circuit declined to follow them because the historical analysis of those courts was cursory as to the nature of habeas proceedings.

Next, the court rejected the argument that because all habeas actions seek release from custody, they should be treated identically regardless of the nature of the detention. The court disagreed based on its prior discussion

of the civil nature of immigration proceedings, but it also noted that if the government's position were to be accepted, it would not change the result in this case; instead, it would require overruling circuit precedent and holding that all habeas proceedings are civil actions under the EAJA.

Finally, the court rejected the argument that considerations of sovereign immunity militated against the court's result, concluding that "it would be unusual for Congress to implicitly single out the attorneys' fees context as the sole area in which habeas is not civil." And though the court did not mention this factor, the fact that Congress included an express exception to the EAJA for tort actions shows that it knows how to include a categorical exception and counsels against reading the statute to include any other unstated exceptions.

Disposition. The Tenth Circuit affirmed the award of attorney's fees to Daley under the EAJA for her successful challenge to immigration detention.

CLASS ACTIONS

Class Settlement

Lundeen v. 10 W. Ferry St. Operations LLC

156 F.4th 332, 2025 U.S. App. LEXIS 26901 (3d Cir. Oct. 16, 2025)

The Third Circuit holds that the Fair Labor Standards Act's opt-in requirement does not prohibit named plaintiffs in a class action from settling prospective class members' unasserted claims under the Act as part of an opt-out class settlement under Rule 23(b)(3).

Facts and Procedural Background. The defendant owned and operated a restaurant and bar. The plaintiff worked there as a bartender from September 2021 until December 2022. The defendant's bartenders contributed to a tip pool, which was distributed proportionally among them. The plaintiff alleged that bar manager Charlins, a salaried supervisory employee, also received distributions from that tip pool. In January 2024, the plaintiff filed an action in district court on behalf of himself and other similarly situated employees. He asserted violations of the Fair Labor Standards Act (FLSA) and the Pennsylvania Minimum Wage Act (PMWA), seeking compensatory damages, including lost tip credits, and liquidated damages under § 216(b) of the FLSA [29 U.S.C. § 216(b)]. Both claims rested on Charlins's alleged receipt of tip-pool funds that were intended for bartenders. The plaintiff styled the case as a hybrid class/collective action, asserting that his FLSA claim should proceed as a collective action under § 216(b), and his PMWA claim as a Rule 23(b)(3) class action. The parties stipulated to an FLSA collective comprising "[a]ll individuals who were employed by [the defendant] as an hourly bartender or server during any week between April 28, 2021, and January 23, 2023, and who contributed to a tip pool that resulted in at least some tips being distributed to Randy Charlins." Because § 216(b) of the FLSA requires employees to give their consent in writing to become party plaintiffs, the plaintiff's counsel mailed notice and "Consent to Join" forms to all putative collective members. Ten employees, including the plaintiff, opted in by filing written consents.

After a settlement agreement was reached, the plaintiff filed an unopposed motion for conditional certification of a class under Rule 23(b)(3) and preliminary approval of a class settlement. The defendant's maximum total payment under the settlement was $100,000 to be distributed to the plaintiff, the plaintiff's lawyers, and class members. $60,000 would be distributed pro rata to all class members who had not opted out, with no requirement for those class members to submit a claim form. In addition, the 10 individuals who had previously opted into the FLSA collective would share in an additional $5,000 pool. In exchange, class members, excluding those who affirmatively opted out, would release their wage-and-hour claims, as well as any FLSA claims that had arisen during the relevant period. The parties also attached to their motion a proposed "Notice of Settlement" form to be sent to class members. The notice informed class members that by failing to opt out they would "waive the right to recover both wages and liquidated damages under the FLSA." The notice also explained how to opt out or object to the settlement.

The district court denied preliminary approval of the class settlement. Citing § 216(b)'s command that "[n]o employee shall be a party plaintiff to any . . . action unless he gives his consent in writing," the court reasoned that the agreement was "neither fair nor reasonable" because it "require[d] class members who did not opt in to the FLSA collective to release their FLSA claims." The district court denied reconsideration and certified the following question for interlocutory appeal: "[W]hether Section 216(b) of the Fair Labor Standards Act permits a party to obtain the release of unasserted FLSA claims through a Rule 23(b)(3) opt-out class settlement."

Split of Authority in District Courts. While no other circuit had yet to squarely address this issue, district courts appeared to be split [compare, e.g., Myles v. AlliedBarton Sec. Servs., LLC, 2014 U.S. Dist. LEXIS 159790, at *9

(N.D. Cal. Nov. 12, 2014) ("[A]n opt-out settlement . . . does not work for the compromise or release of FLSA claims."), Tijero v. Aaron Bros., Inc., 2012 U.S. Dist. LEXIS 183238, at *27 (N.D. Cal. Jan. 2, 2013) ("[I]t is contrary to § 216(b) to bind class members to a release of FLSA claims[.]"), Butler v. Am. Cable & Tel., LLC, 2011 U.S. Dist. LEXIS 74512, at *25 (N.D. Ill. July 12, 2011) ("[R]eleas[ing] the FLSA claims of all class members without the requisite opt-in procedures is improper[.]"), and La Parne v. Monex Deposit Co., 2010 U.S. Dist. LEXIS 131029, at *8 (C.D. Cal. Nov. 29, 2010) ("[I]t would be contrary to the statute to bind class members who do not affirmatively elect . . . to participate in the FLSA suit[.]"), with Lunemann v. Kooma III LLC, 2024 U.S. Dist. LEXIS 85666, at *5 (E.D. Pa. May 13, 2024) ("[O]pt-in FLSA claims may be properly released through [an] opt-out class settlement[.]"), Then v. Great Arrow Builders, LLC, 2022 U.S. Dist. LEXIS 32051, at *7–*13 (W.D. Pa. Feb. 23, 2022) (approving opt-out class settlement releasing FLSA claims), Stephens v. Farmers Rest. Grp., 329 F.R.D. 476, 489 (D.D.C. 2019) ("[T]he Court finds little support for the proposition that parties are categorically precluded from including such a release in a binding Rule 23 class-action settlement."), and Cotter v. Lyft, Inc., 2017 U.S. Dist. LEXIS 38256, at *3–*7 (N.D. Cal. Mar. 16, 2017) (rejecting the notion that "a district judge should not approve a settlement in a Rule 23 wage-and-hour class action . . . that releases FLSA claims"), aff'd sub nom. Cotter v. Page, 2017 U.S. App. LEXIS 20101 (9th Cir. Sept. 15, 2017)].

Disposition. The Third Circuit agreed with those courts that had held that § 216(b) of the FLSA provides only a mechanism for opting into collective litigation. Accordingly, the court held that the language of § 216(b) does not bar the release of unasserted FLSA claims in a court-approved Rule 23 settlement. By its terms, § 216(b) establishes a private right of action for employees to recover under the FLSA. Courts had therefore recognized that FLSA claims cannot be asserted using an opt-out class action procedure. But the statute stops there. Nothing in § 216(b) addresses the release of unasserted claims. Put simply, § 216(b) requires written consent to litigate an FLSA claim, but it says nothing about waiver of such a claim in settlement. And in that silence "it was our duty to respect not only what Congress wrote but, as importantly, what it didn't write." Reading a statute that governs only how claims may be litigated as also restricting how they may be waived would not be a construction of a statute, but, in effect, an enlargement of it by the court. The district court nevertheless inferred from § 216(b) a supposedly worker-protective principle forbidding such releases.

Even assuming, arguendo, that Congress intended to protect workers by adopting the opt-in mechanism, that premise did not authorize courts to add features that would achieve the statutory "purposes" more effectively. In Knepper v. Rite Aid Corp. [675 F.3d 249 (3d Cir. 2012)], the Third Circuit rejected the notion that Rule 23 class actions asserting state law claims were "inherently incompatible" with the FLSA's opt-in procedure. It endorsed the use of "hybrid" actions, such as the present one, where an FLSA collective and a Rule 23(b)(3) class proceeded side by side in the same case. Knepper explained that "the plain text of § 216(b) provided no support for the concept of inherent incompatibility" and that courts holding otherwise had impermissibly "reasoned from Congressional intent."

Here, the district court had to determine if the compatibility identified in Knepper of an FLSA collective action and Rule 23(b)(3) action extended to a settlement of the latter, including, inter alia, a waiver by prospective FLSA plaintiffs of any such FLSA claim. In doing so, the district court invoked the same rationale rejected in Knepper. It reasoned that such releases would "be an end run around Congress's decision to require opt in party plaintiffs in FLSA cases" and would be "at odds with Congress's intent in adopting an opt-in mechanism under the FLSA." But Knepper made clear that extrinsic considerations—such as policy goals—were relevant to statutory interpretation only insofar as they "shed a reliable light on the enacting Legislature's understanding of otherwise ambiguous terms." Section 216(b)'s natural meaning is not elusive. It creates a private right of action and requires

employees to opt in to litigate their claims; it says nothing about releasing claims that have not been asserted. In short, Congress wrote the statute it wrote—meaning, a statute going so far and no further.

Additionally, Congress created the opt-in scheme, not as a worker-protection measure but "primarily as a check against the power of unions" and a bar to "one-way intervention" whereby plaintiffs could wait for a favorable outcome before choosing to opt in and be bound by the judgment. Accordingly, the Third Circuit also rejected the view that permitting the release of unasserted FLSA claims in a Rule 23(b)(3) settlement undermined the congressional purpose of the Portal-to-Portal Act, which had created Section 216(b)'s requirements.

Finally, as the district court recognized, whether judges could approve opt-out settlements that released FLSA claims was a different inquiry from whether judges should do so. The former question was an issue of statutory interpretation; the latter turned on whether the settlement was "fair, reasonable, and adequate," subject to the district court's considerable discretion. While § 216(b) did not forbid the release of unasserted FLSA claims in opt-out settlements, such releases remained relevant to the court's overall Rule 23(e)(2) analysis. For example, courts that had approved similar settlements had stressed the importance of clear notice to class members of the release and a meaningful opportunity to opt out. While the proposed notice here did just that, and that safeguard likely weighed in favor of approval, it was ultimately for the district court to assess the fairness of the proposed settlement in light of the factors articulated in Third Circuit precedent.