

Nation's Largest Plumbing Supplies Wholesale Distributor Found in Violation of Fair Labor Standards Act

After a trial to the Court, Judge Richard Matsch, formerly Chief Judge of the United States District Court for the District of Colorado, recently found that Ferguson Enterprises, Inc., the largest plumbing wholesale distributor in the United States, had intentionally and willfully violated the overtime provisions of the Fair Labor Standards Act (“FLSA”) by misclassifying a former employee, Michael Ricottone, at its Colorado Springs office as an “outside salesperson” in order to avoid paying him overtime. Judge Matsch found that Mr. Ricottone essentially performed almost all of his work inside the office and that any visits outside of the office were not for the purpose of making sales. Judge Matsch found that Ferguson Enterprises had failed to meet its burden to establish an exemption from paying overtime. In finding on behalf of Mr. Ricottone, who was an employee of Ferguson for approximately ten years, the Court also ordered Ferguson to pay liquidated damages equal to the amount of the overtime owed to Mr. Ricottone, as well as Mr. Ricottone’s attorneys’ fees and costs.

Ferguson has offices throughout the state of Colorado, including Pueblo and Colorado Springs. The case may have national significance since Ferguson employs approximately 1,100 “outside salespeople.” Mr. Ricottone’s total overtime compensation to be awarded by the Court is \$55,980.44, excluding attorneys’ fees and costs. The Fair Labor Standards Act is the federal law that, among other things, determines whether an individual is exempt or non-exempt - that is eligible to receive overtime or not. It is the employer’s burden to establish that an employee is exempt from the overtime provisions. Judge Matsch found that Ferguson had woefully failed to do so and that its failure to comply with the Fair Labor Standards Act was “willful.”