

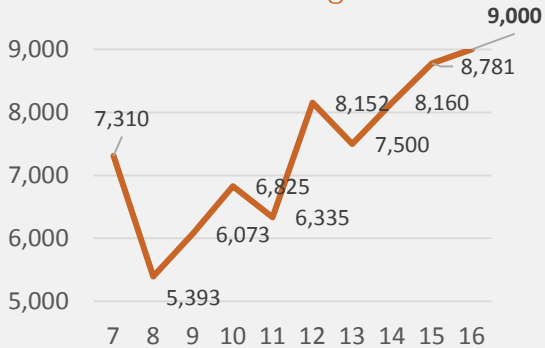


## FLSA OVERVIEW

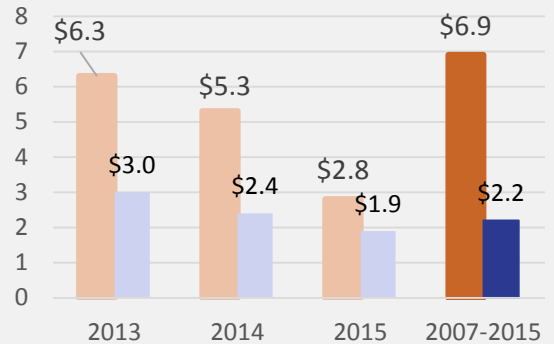
- Established in 1938 as part of President Franklin’s New Deal and governed by the Department of Labor (DOL) Wage and Hour Division. DOL has the authority to recover back wages and liquidated damages and assess civil money penalties in instances of violations.
- Sets employment standards for Minimum Wage, Overtime, Hours Worked, Recordkeeping and Child labor

## WAGE & HOUR TRENDS

FLSA Filings

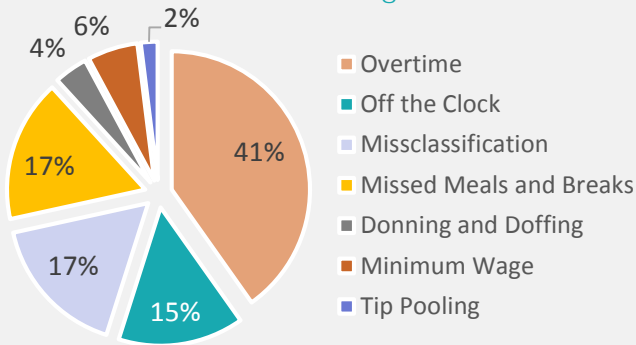


W&H Settlements

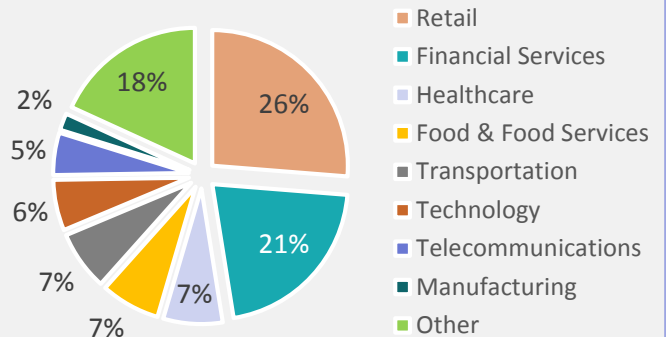


W&H Settlement Characteristics (2007-2015)

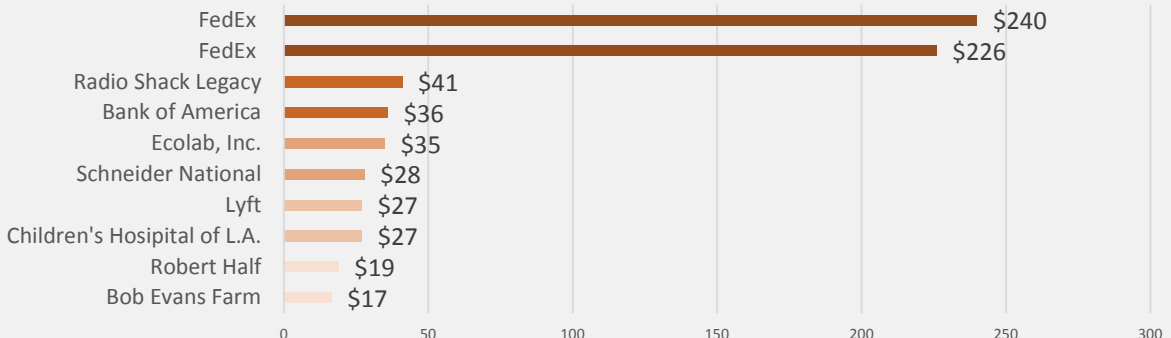
### Allegations



### Top Industries



2016 Top 10 Settlements in Private Plaintiff Wage & Hour Class Actions





## DEPARTMENT OF LABOR UPDATE

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- \$266 million in back wages for more than 280,000 workers, a \$20 million increase from 2015.
- \$77.2 million in low wage industries for 106,000 workers.

## NEW OVERTIME RULE ON HOLD

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A Texas Federal Judge entered a nationwide injunction on November 22, 2016 blocking the implementation of the new DOL rule which was to become effective December 1, 2016. The proposed exemptions included a higher exempt salary threshold, higher compensated employee exemption threshold, broader employer applicability and additional recordkeeping with respect to wage and hour data as part of the employer's EEO-1 report.

## LITIGATION EXPECTED TO RISE AS A RESULT OF...

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### I. Migration of Plaintiff Class Action Attorney's to W&H Litigation

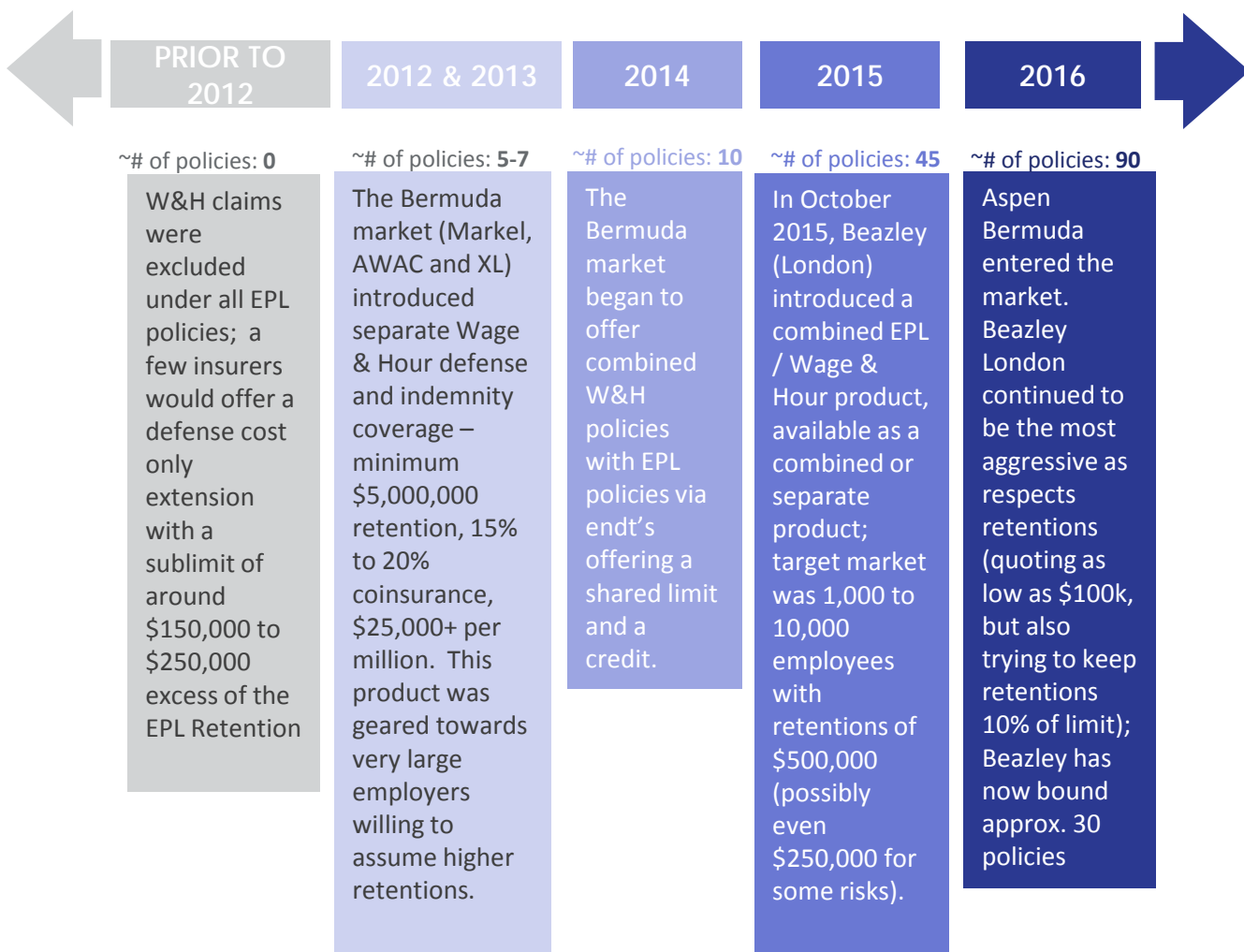
- Low cost investment as plaintiff's bar
- Favorable class certification statistics
  - Rulings are up 28% in 2015
  - Success rate is higher at 76% (147 granted / 48 denied) compared to 50% success rate for non W&H employment related class certifications (8 granted / 4 denied). FLSA Decertification Rulings: 13 Granted / 16 denied.

### II. Recent Plaintiff Friendly Case Law

- *Tyson Foods v Bouaphakeo et al*
- The defense-minded decisions in Wal-Mart and Comcast have not taken hold in any significant respect in the context of FLSA certification decisions.



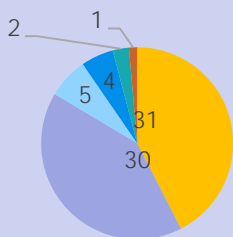
W&H PRODUCT DEVELOPMENT TIMELINE



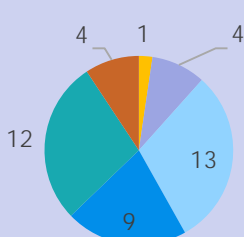
WAGE & HOUR MARKET PROFILE

■ Markel (B)  
 ■ Beazley (UK)  
 ■ AWAC (B)  
 ■ AIG (US or B)  
 ■ XL (B)  
 ■ Aspen (B)

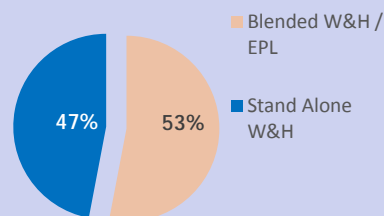
# OF PRIMARY POLICIES



# OF EXCESS POLICIES



STAND ALONE VS. BLENDED



\* About a 10% credit if blended



## KEY CONSIDERATIONS TO MAXIMIZE COVERAGE

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- Narrowly tailored exclusions
  - Prior knowledge of Claims by Insured's Law, HR or Risk Management departments
  - Loss Amounts attributable to criminal violation if established by final adjudication in underlying action (severability will apply)
- Proactive claims advocacy

## INFORMATION NEEDED FOR INDICATIONS

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- **State by State Employee Breakout**
  - Breakout between Exempt and Non-Exempt employees by State (Independent Contractors if available). May also include California specific questions if applicable.
- **Wage & Hour Policies**
  - Describe the classification process for employees, how is it decided and by whom? How often reviewed?
- **Compliance**
  - Describe HR/ Legal team and if they are responsible for FLSA compliance as there is no dedicated compliance team)
- **Past Wage & Hour Litigation**
  - Past five years with a description of allegations, defense costs and resolution?
  - Has the applicant been the subject of a US DOL investigation