



The Case

DOAR represented the defendant in this class-action lawsuit filed in federal court under the Fair Labor Standards Act. In this case, the plaintiffs alleged that the defendant employer had failed to pay them for all hours they worked, instead paying them a fixed salary. Because the defendant did not maintain an official time-clock or consistently keep time sheets, the plaintiffs relied on the absence of such records to make their claim. All told, plaintiffs sought \$23 million in damages.

The Challenge

It is rare for FSLA cases to go to trial, as they are often costly and difficult for the defense to win. Employment cases such as this one, which are based on employees' claims and testimony, can play on jurors' emotions and are especially hard to disprove. Moreover, voluminous documents related to the employees in this case existed, making it extremely difficult for the attorneys to know which documents would support compelling defense themes and strategies.

A Discovery-to-Decision Solution

Because DOAR was brought into the case in its initial stages, it presented a textbook example of how the discovery-to-decision model of litigation consulting can shape a winning case strategy. The full range of DOAR's services came into play throughout the course of the litigation.

Electronic Discovery Management

DOAR's discovery practice group became involved as soon as it was determined there was electronically stored information relevant to the case. After performing a full IT assessment, DOAR identified several key systems to be collected. DOAR's consultants then compiled a master cross reference of these systems and consolidated the information into a useable form. This meant DOAR could run any query across all data sets and generate any report necessary to support the defense's arguments. Although the employer did not maintain official time sheets, numerous other business records for the employees existed. DOAR was able to compile summary reports that revealed a consistent pattern of daily employee activities, allowing the defense team to develop a case strategy focused on the fact that nearly all the employees only worked until a certain time of the day and were appropriately compensated for their hours.

Jury Consulting

Two rounds of jury research were conducted with focus groups. In addition, DOAR performed extensive preparation of witnesses, many of whom spoke English as a second language. In the first round of research, attorneys tested initial versions of both sides of the case in a focus group, using their responses to reshape strategies relating to graphics and arguments.



