

## Working Overtime

On May 8, 2014, Plaintiffs in *Martin v. United States*, a lawsuit seeking to recover pay for overtime hours worked in 2013, filed a second amended complaint seeking to add 900 additional plaintiffs who intended to opt in upon approval of a class certification. Martin's motion to amend the complaint also sought to withdraw their Back Pay Act claim, which had been asserted in the First Amended Complaint, without prejudice.

The Government objected, arguing that the Back Pay claim should be dismissed with prejudice to avoid the potential of future or piecemeal litigation. The Government also argued that the addition of the new plaintiffs should be denied because of the Government's pending motion to dismiss plaintiffs that are exempt from the Fair Labor Standards Act.

In support, the Government relied on *Kandel v. United States*, a case in which the CFC ruled that piecemeal litigation was disfavored. But the trial court distinguished that case, explaining that *Kandel* was inapposite:

In *Kandel*, the court declined to rule on dispositive issues of law pertinent to only a few plaintiffs in a class action on the ground that such a limited ruling would have been inefficient. The instant motion presents a wholly different context. Here, plaintiffs request the withdrawal of a claim, instead of court action on a matter—as was sought in *Kandel*.

The Court also held that it would be premature to deny the motion to add plaintiffs on the ground that they could be dismissed later in the litigation process. The court took a practical view of the issue, explaining:

*The court has not yet ruled on the government's motion to dismiss, and defendant has not yet responded to plaintiffs' motion to certify the collective action. Thus, it would be premature to exclude potential opt-in plaintiffs at this state on the basis that they might not be able to continue as plaintiffs in the lawsuit.*

Finally, the court emphasized that leave to amend a complaint should, as the rules require, be “freely given.”

Read full decision [here](#).