

## TX Employment Lawyers Keep Busy as Energy Layoffs Continue

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By *Natalie Posgate*

(Feb. 25) – Bankruptcy lawyers are not the only attorneys extra busy because of the oil and gas crisis. Lawyers specializing in labor and employment law have experienced a boom in business, too.

Lawsuits related to layoffs and job reductions in the oil patch have dramatically increased during the past 10 months.

Employment complaints filed in the Southern and Western districts of Texas hit all-time highs in 2015, according to new data compiled by Androvett Legal Media.

If filings during the first six weeks of this year are an indication, 2016 could shatter all records in Texas for lawsuits filed due to job reductions.

“Any time there is a termination of employment, there is a risk of litigation,” said Ron Chapman, a shareholder in the Dallas office of the employment law firm Ogletree Deakins. “Given the layoffs in the industry, it’s not a surprise that employment litigation has increased.”

Chapman and other labor and employment lawyers say the uptick in lawsuits over back wages, age discrimination, – and especially unpaid overtime and the status of independent contractors – directly tracks layoffs by oil and gas companies.

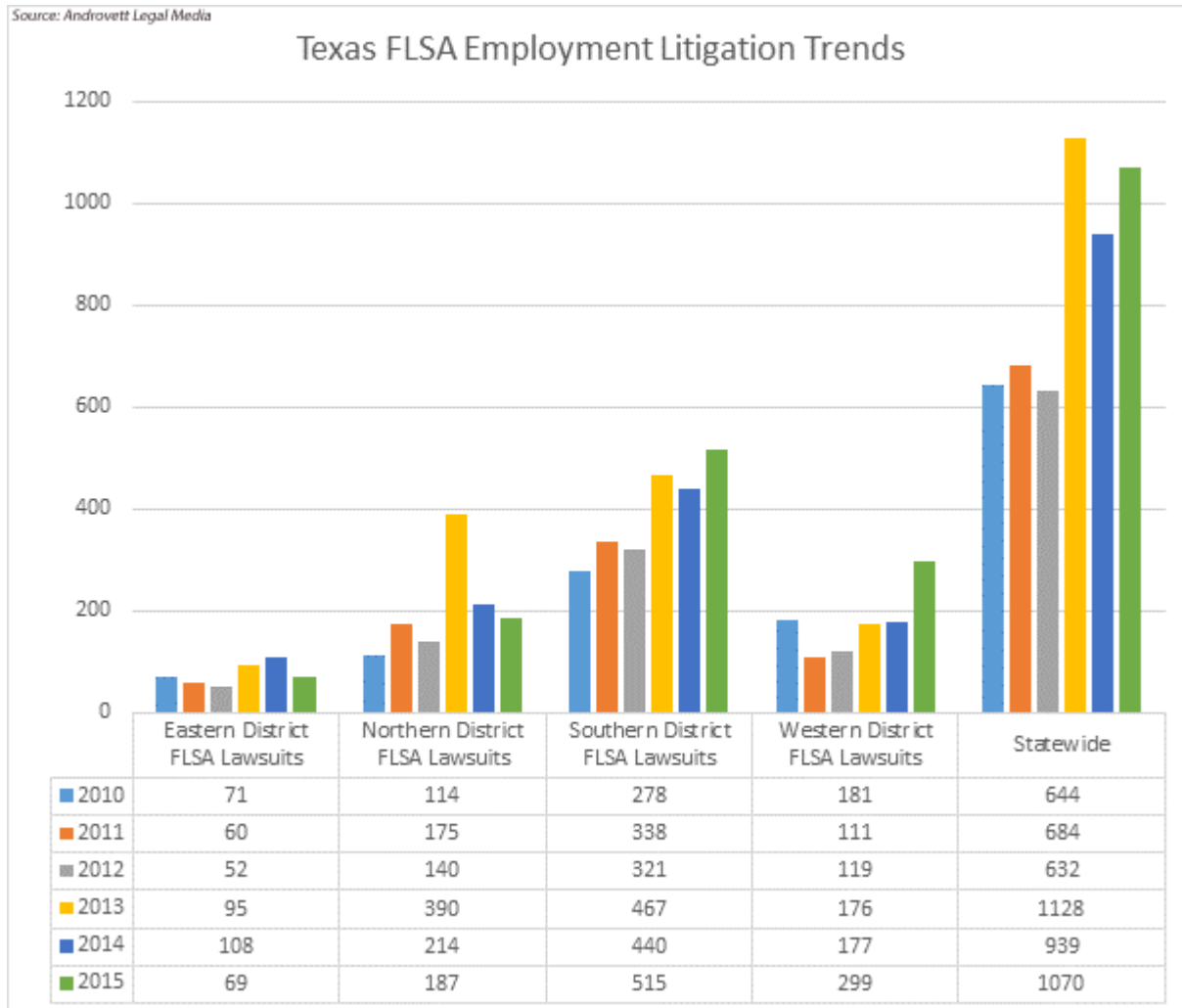
Complaints filed under the Fair Labor Standards Act in the Western District, which has jurisdiction over the major drilling towns in the Eagle Ford Shale and Permian Basin, nearly tripled from the first three months of 2015 to the second quarter and subsequent quarters. The increase during that same time period in Southern District, which includes Houston, was 63 percent, the Androvett data shows.

There were 814 FLSA lawsuits filed in the Southern and Western districts in 2015 – compared to 617 such cases a year earlier.

The number of employment cases filed in the Northern and Eastern districts actually declined in 2015, but legal experts say that is almost certain to change in 2016 and Dallas lawyers are getting more than their fair share of the litigation filed in West Texas.

“I’ve never seen anything like this,” says Allen Vaught, a lawyer at Baron & Budd in Dallas, who currently represents former oil and gas employees in 40 different cases. “I have cases in West Virginia, North Dakota, Colorado, California, New Mexico, Louisiana... all over.”

No region has seen more action than the Southern District of Texas, which is headquartered in the nation’s energy capital, Houston. The Androvetta data reports that the Southern District saw a record-breaking 515 FLSA cases in 2015 – an 85 percent increase from 2010.



The lawsuit data doesn’t even tell the full story, as an increasing number of wage-and-hour disputes are conducted in private arbitration proceedings instead of court. Lawyers on both the employer and employee side say this layoff cycle is unlike any they have seen before, including during the Great Recession.

The growing use of independent contractors by oil and gas companies, especially those in the service sector, is a significant source of the litigation. Lawyers for workers contend that employers misclassify many employees as independent contractors as a means to avoid basic employment laws in order to save money.

“It’s a pretty pervasive issue in the oilfield,” said Vaught, who currently represents workers in lawsuits against EOG Resources, Chesapeake Energy and Marathon Oil. “When they’re labeled as contractors, they get no overtime, no benefits, no health insurance, no social security and no FICA taxes. And the government is getting less tax revenue than it would.”

