

The Biggest Employment Decisions of 2018: Midyear Report

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Hugh F. Murray, III

The U.S. Supreme Court's blockbuster decisions in *Epic Systems* and *Janus*, which cleared the way for businesses to use class action waivers in arbitration pacts with workers and stripped public-sector unions of the ability to collect "fair share" fees from workers, were among the highlights of 2018 for employment law observers.

McCarter & English LLP partner Hugh F. Murray said the "big line" in the high court's decision "obviously was the sentence that they're not going to narrowly construe exemptions to the Fair Labor Standards Act."

While such a pronouncement is "not the type of thing that's going to have an immediate impact," Murray said that as cases get rolled out it will, depending on people's particular viewpoints, either "balance the scales a little bit so there's no advantage to the employee" or give courts "license to find more and more people exempt from overtime requirements."

Murray added that the high court's pronouncement as to the construction of FLSA exemptions is a "position that employers and folks defending wage-and-hour claims will welcome.

"From a planning point of view, employers will still have the burden of proving that the employee is exempt, they just don't have the headwinds on the legal interpretations that existed before," Murray said.