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STREAMLINING DISCOVERY AT HEART OF NEW FAIR LABOR STANDARDS ACT PROTOCOLS

The Federal Judicial Center and IAALS Roll Out Case-Specific Disclosures with Goal of Efficiency for All

DENVER—The Fair Labor Standards Act (FLSA) was one of the most important pieces of legislation to emerge from President Roosevelt’s New Deal. To this day, the FLSA impacts more than 130 million Americans by addressing the working conditions of men, women, and child laborers. These legal cases are now fraught with cost and delay, making the courts inaccessible for many and inefficient for all. With the goal of creating a more efficient process for both parties and the courts, [IAALS](#), the Institute for the Advancement of the American Legal System, and the [Federal Judicial Center](#) (FJC) today announced the release of new [FLSA Initial Discovery Protocols](#) designed to streamline discovery in federal courts.

“These new FLSA protocols are a natural outgrowth of the [Initial Discovery Protocols for Employment Cases Alleging Adverse Action](#), which are successfully reducing discovery disputes and costs,” explained the [Honorable Jeremy Fogel](#), who directs the Federal Judicial Center. “Because of the nature of FLSA cases, and their prevalence in federal district courts, they lend themselves to pattern discovery. That is why we are optimistic that as federal court judges embrace these new protocols, they will have the widespread impact of resolving FLSA cases more quickly and inexpensively.”

The protocols create a new category of information exchange, replacing initial disclosures with initial discovery specific to FLSA cases. They identify which documents and information must be produced simultaneously by both parties early in the case, help the parties frame the issues to be

resolved, and plan for more efficient and targeted discovery. Individual federal judges throughout the country are encouraged to use the protocols in their courtrooms and the Federal Judicial Center will monitor their impact.

“By streamlining the discovery process, both parties are able to get to resolution in a more cost effective way. That means a more accessible process for everyone—for the restaurant workers who are not properly compensated for their overtime, or for the company whose employee records provide proof of accurate payment,” said [Brittany Kauffman](#), who directs IAALS work to reform the civil justice system. “We turn now to spreading the word, so that judges and attorneys around the country pick the protocols up and put them into practice.”

The protocols are already in use in the United States District Court for the Southern District of Texas. They were developed by a nationwide committee comprised of a balanced group of highly experienced attorneys who regularly represent plaintiffs or defendants in FLSA matters.

“The FLSA protocols are alive and well in my court,” commented [Chief Judge Lee H. Rosenthal](#) of the United States District Court for the Southern District of Texas, Houston Division. “The lawyers tell me they are really helpful. Good lawyers experienced in these cases were exchanging much of this information anyway; the less experienced in employment cases or in federal court practice are enormously benefited by the protocols. I encourage my colleagues to embrace these protocols and experience for themselves how a more efficient process can help the courts and litigants.”

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