

NEWS

McGinnis & Zaloom Address FLSA Ruling

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Charlotte Employment Member Karin McGinnis and Research Triangle Park Employment Member John Zaloom provided *Law360* with insight on why the 5-4 ruling in *Genesis HealthCare Corp. et al. v. Laura Symczyk* was significant. Their commentary was published in "Lawyers Weigh In On Supreme Court's FLSA Ruling" on April 16.

*"Genesis ... changes the playing field in FLSA collective actions. FLSA plaintiffs (and their attorneys) for years have been able to use the FLSA collective action as a way to obtain settlement of perhaps questionable claims by inducing fear on the part of the employer of huge and expensive class litigation. One strategy employers have used is to try to settle with the class — which is an 'opt-in' class — before it grows. The Supreme Court's decision today shows that employers may be able to cut a collective action short by making a Rule 68 offer of judgment that covers all of the initial plaintiff's (or plaintiffs') damages and attorneys' fees. In *Symczyk*, the court held that the employer's offer of judgment to the plaintiff deprived the plaintiff of any personal interest in representing others in the litigation where nobody had opted in to the class at the time of the offer. Therefore, because there was no plaintiff or class member in the case with an interest in its outcome, the case was properly dismissed."*