

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 15-2409**

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DEBORAH WEYMOUTH, on behalf of themselves and others  
similarly situated; JAMES REDFORD, on behalf of themselves  
and others similarly situated; JAMES A. HUGHES,

Plaintiffs - Appellants,

and

E. CARLTON KING, JR.; LARRY W. SPENCER,

Plaintiffs,

v.

COUNTY OF HENRICO, VIRGINIA,

Defendant - Appellee.

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Appeal from the United States District Court for the Eastern  
District of Virginia, at Richmond. Robert E. Payne, Senior  
District Judge. (3:14-cv-00419-REP-RCY)

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Submitted: July 28, 2016

Decided: August 31, 2016

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Before WILKINSON, MOTZ, and HARRIS, Circuit Judges.

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Vacated and remanded by unpublished per curiam opinion.

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Harris D. Butler, Zev H. Antell, BUTLER ROYALS, PLC, Richmond,  
Virginia; Craig J. Curwood, Philip J. Dean, CURWOOD LAW FIRM,  
PLC, Richmond, Virginia, for Appellants. Joseph P. Rapisarda,

Jr., Lee Ann Anderson, Andrew R. Newby, Wade T. Anderson, COUNTY  
OF HENRICO, Henrico, Virginia, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

The Appellants, current and former Captains for the Henrico Fire Division, appeal the district court's order accepting the magistrate judge's recommendation to grant summary judgment in favor of the County of Henrico, Virginia, on Appellants' claims for overtime pay under the Fair Labor Standards Act, 29 U.S.C. §§ 201-219 (2012) (FLSA). In our recent decision in Morrison v. Fairfax, \_\_\_ F.3d \_\_\_, \_\_\_, No. 14-2308, 2016 WL 3409651 (June 21, 2016), we considered for the first time the 2004 "first responder regulation" that directly governs the question posed in this appeal, and clarified the standard under which firefighters may be deemed exempt under the FLSA. As the district court's order underlying this appeal pre-dated Morrison, the district court did not have the benefit of our analysis when it granted summary judgment.

Accordingly, we find it most prudent to vacate and remand this case to the district court to allow it, in the first instance, to apply the legal standard set forth in Morrison to the factual record here, and to consider, if appropriate, whether the parties are entitled to expand the record in light of the guidance provided by Morrison. We, of course, express no opinion as to the outcome of this matter. We dispense with oral argument because the facts and legal arguments are adequately

presented in the materials before this court and argument would not aid the decisional process.

VACATED AND REMANDED