Appellate Court Enforces Private FLSA Settlement (Updated 01/07/13)

Insights
8.14.12

UPDATED 01/07/13: The U.S. Supreme Court has declined to review this case, so the 5th Circuit's decision stands. This action does not mean that the Supreme Court approves of or has ratified the decision or has otherwise expressed any opinion about the ruling.

UPDATED 10/31/12: The technicians have now asked the U.S. Supreme Court to review the 5th Circuit's ruling. Among other things, their petition argues that the 5th Circuit's having enforced an out-of-court settlement not supervised by the U.S. Labor Department conflicts with the 1982 decision by the 11th Circuit U.S. Court of Appeals (with jurisdiction over Alabama, Florida, and Georgia) in *Lynn's Food Stores, Inc. v. U.S.*, 679 F.2d 1350, such that the Supreme Court should step in to resolve the question.

The longstanding general view has been that wage claims under the federal Fair Labor Standards Act may be reliably settled only:

◊ Under the U.S. Labor Department's supervision, or

◊ Upon the dismissal of a lawsuit in which a court determines that there has been a fair and reasonable resolution of a *bona fide* FLSA dispute.

Even so, there has always been some reason to think that it might be possible to enter into binding private agreements to settle FLSA claims relating to what the U.S. Supreme Court referred to in the 1940s as "bona fide disputes as to liability." The 5th Circuit U.S. Court of Appeals (with jurisdiction over Louisiana, Mississippi, and Texas) has now provided cause for optimism that courts might indeed come to embrace this principle, at least in the right circumstances.

Technicians Bound By Accepting Compromise
Martin v. Spring Break '83 Productions, L.L.C. dealt with a claim brought by film-industry technicians seeking additional compensation for hours they allegedly had worked. A union

representative investigated their grievances and felt that it was impossible to determine one way or the other whether the employees had actually worked the hours asserted. The employer and the union reached a settlement acknowledging the continued existence of a dispute but calling for the technicians to receive payments computed for a compromised amount of alleged worktime.

The 5th Circuit ruled that the technicians had entered into a binding satisfaction of their FLSA claims by accepting payment under the agreement. The court observed that the employees' FLSA rights themselves had not been waived or otherwise bargained away. Instead, the technicians had received payments in amounts that were based upon the application of the FLSA's principles to the number of hours worked agreed to in the settlement. In the court's view, "the payment offered to and accepted by [the technicians], pursuant to the Settlement Agreement, is an enforceable resolution of [their] FLSA claims predicated upon a bona fide dispute about time worked and not as a compromise of guaranteed FLSA substantive rights . . .."

Ruling's Effect Is Limited

This decision is good news, but employers should not take it to mean that private waivers or releases of FLSA claims will now be routinely and broadly enforced or observed. For one thing, while other jurisdictions might decide to follow the 5th Circuit's lead, only time will tell whether and to what extent this will happen. It is also questionable whether the U.S. Labor Department will defer to such settlements.

Moreover, the court did ***NOT*** rule that employees can privately waive or release the legal rights provided for in the FLSA. For example, a court is highly unlikely to enforce an agreement:

◊ Calling for a non-exempt employee to receive FLSA overtime pay for only 50% of his or her accurately-recorded hours worked over 40 in a workweek,

◊ Acquiescing in an FLSA overtime multiple of, say, 1.25 (instead of 1.5) for a non-exempt, hourly-paid employee's hours worked over 40 in a workweek, or

◊ Based upon a construction electrician's supposedly having qualified for the FLSA's "professional" exemption.

The surrounding circumstances in *Martin* are also relevant. Among other things, there was an actual, ongoing, good-faith dispute about the relevant facts of the technicians' claims; the technicians had already consulted with counsel and were aware of their FLSA rights; and they had even gone so far as to file a state-court lawsuit prior to having accepted their payments.

We will of course be following future developments in light of the *Martin* ruling.