

Rachel CONCEPCION, et al.
vs.
AMERICAN INTERNATIONAL
KNITTERS CORPORATION,
et al.

Civil Action No. 86-0004
District Court NMI

Decided December 12, 1986

1. Labor - Wage Claims - Waiver
Waivers signed by plaintiff employees are legally ineffective and do not prevent them from seeking other wages they claim are due them, where waivers were neither approved by the court or U.S. Department of Labor pursuant to statute. 29 U.S.C. §216.

2. Civil Procedure - Summary Judgment

To defeat a summary judgment motion, the opponent must set forth specific facts showing that there is a genuine issue for trial. Fed.R.Civ.P. 56(e).

3. Civil Procedure - Summary Judgment

A material fact is "genuine" if the evidence presented is such that a reasonable jury could return a verdict for the non-moving party; there is no genuine issue of material fact if the evidence presented in opposing affidavits is of insufficient caliber or quantity to allow a rational finder of fact to find for the opponent by clear and convincing evidence. Fed.R.Civ.P. 56.

4. Civil Procedure - Summary Judgment

Although all reasonable doubts touching the existence of a genuine issue as to a material fact must be resolved against the party moving for summary judgment, the Court cannot invent evidence or

hypothesize to deny summary judgment to which movant is entitled.

5. Labor - Wage Claims - Waiver
Federal law provides but two methods whereby FLSA wage claims may be settled by employees: first, under 29 U.S.C. §216(c), the Secretary of Labor of the United States may supervise a settlement in which payment of wages is made to employees; second, FLSA wage disputes may also be resolved in a district court-supervised settlement of a lawsuit brought directly by employees against their employer under 29 U.S.C. §216(b). 29 U.S.C. §216 (b),(c).

6. Labor - Federal Law - Preemption

The CNMI cannot fulfill the role and obligations of the federal government under the Fair Labor Standards Act as the CNMI cannot preempt federal law and, absent an express delegation of authority, must abide by federal standards.

7. Labor - Wage Claims - Liquidated Damages

To show a good faith defense to a claim for liquidated damages under the federal wage statute, employer must show that the act or omission giving rise to the action was done in good faith and that the employer had a reasonable ground for believing these acts or omissions did not violate the FLSA. 29 U.S.C. §260.

8. Civil Procedure - Summary Judgment

Court may deny summary judgment on issue in the exercise of its sound discretion, even though it believes movant technically is entitled to judgment, where granting of summary judgment on this issue would not lessen the quantity of evidence which moving party would be required to offer. Fed.R.Civ.P. 56.

1
2 UNITED STATES DISTRICT COURT
3 FOR THE
4 NORTHERN MARIANA ISLANDS

5 RACHEL CONCEPCION, et al.,)
6 Plaintiffs,)
7 vs.)
8 AMERICAN INTERNATIONAL KNITTERS)
9 CORPORATION and WILLIE TAN,)
10 Defendants.)

CIV. ACTION NO. 86-0004

DECISION AND ORDER

FILED
Clerk
District Court

DEC 12 1986

For The Northern Mariana Islands

By 

(Deputy Clerk)

11
12 THIS MATTER came before the Court on December 1, 1986,
13 for hearing of plaintiffs' motion for partial summary judgment
14 pursuant to Rule 56 of the Federal Rules of Civil Procedure
15 (FRCP).

16 Plaintiffs seek partial summary judgment on three
17 issues:

- 18 1. That the waivers signed by plaintiff
19 employees are legally ineffective and do
20 not prevent them from seeking other
21 wages they claim are due them during the
22 time period ostensibly covered by the
23 waivers.
- 24 2. That defendants have failed to
25 demonstrate the defense available to
26 them under §260 of the Fair Labor
Standards Act (FLSA) (29 U.S.C.).
3. That plaintiffs still are entitled to
request from this Court an award of
liquidated damages not exceeding the
payments they received for unpaid wages
from defendants in December of 1984.

1 For the reasons given below, plaintiffs' motion for
2 partial summary judgment is granted as to the first two issues
3 and denied as to the third.

4 [1-3] FRCP 56(c) mandates that summary judgment shall be
5 rendered "if the pleadings, depositions, answers to
6 interrogatories, and admissions on file, together with the
7 affidavits, if any, show that there is no genuine issue as to any
8 material fact and that the moving party is entitled to a judgment
9 as a matter of law." The United States Supreme Court recently
10 addressed the law of summary judgment in Anderson v. Liberty
11 Lobby, Inc., 106 S.Ct. 2505 (1986). There, the Court reiterated
12 that "the mere existence of some alleged factual dispute between
13 the parties will not defeat an otherwise properly supported
14 motion for summary judgment; the requirement is that there be no
15 genuine issue of material fact." Anderson, 106 S.Ct. at 2510
16 [Emphasis in the original]. The Court noted that the substantive
17 law of the case defines materiality:

18 Only disputes over facts that might affect
19 the outcome of the suit under the governing
20 law will properly preclude the entry of
21 summary judgment. Factual disputes that are
22 irrelevant or unnecessary will not be
23 counted.

24 Id., at 2510.

25 To defeat a summary judgment motion the opponent must
26 set forth specific facts showing that there is a genuine issue
for trial. FRCP 56(e). A material fact is "genuine" if the
evidence presented is such that a reasonable jury could return a

1 verdict for the non-moving party. Anderson, 106 S.Ct. at 2510.
2 There is no genuine issue of material fact if the evidence
3 presented in opposing affidavits is of insufficient caliber or
4 quantity to allow a rational finder of fact to find for the
5 opponent by clear and convincing evidence. Anderson, 106 S.Ct.
6 at 2513. The opponent cannot save its evidence until trial but
7 must sufficiently disclose what the evidence will be to show that
8 there is a genuine issue of fact to be tried. Turner v.
9 Lundquist, 377 F.2d 44, 48 (9th Cir. 1967). An affidavit
10 containing hearsay and which is conclusory in nature is not
11 adequate under Rule 36. Id., at 48. The Court's role at the
12 summary judgment stage is not to weigh the evidence and determine
13 its truth or falsity but, rather, to determine whether or not
14 there exists a genuine issue for trial. Anderson, 106 S.Ct. at
15 2511. There is no issue for trial unless there is sufficient
16 evidence favoring the non-moving party for a jury to return a
17 verdict for that party. Anderson, 106 S.Ct. at 2511. It is true
18 that "[a]ll reasonable doubts touching the existence of a genuine
19 issue as to a material fact must be resolved against the party
20 moving for summary judgment." 6 Pt.2 Moore's Federal Practice
21 836.23, pp. 36-1394. However, the Court cannot invent evidence
22 or hypothesize randomly to deny summary judgment to which movant
23 is otherwise entitled. Clearly, litigants advancing or defending
24 a motion for summary judgment cannot do so superficially or in a
25 lackadaisical manner.

26 As to the first issue, a brief recitation of the facts

1 is useful. Plaintiffs were employees of defendants. Defendants
2 were alleged to have failed to pay overtime wages during periods
3 in 1984. An investigation was conducted by certain agencies of
4 the government of the Commonwealth of the Northern Mariana
5 Islands (CNMI), which investigation resulted in defendants making
6 to plaintiffs lump sum payments for overtime wages. At some
7 point after the investigation was concluded and the payments
8 made, defendants sought out plaintiffs and obtained a "Quit Claim
9 and Waiver" from each of them. No evidence has been presented to
10 controvert the allegation that the waivers were not a part of the
11 investigation and that the government agencies played no part in
12 obtaining the waivers. By the terms of the waiver, the person
13 signing deemed herself to have been "justly compensated" and
14 waived irrevocably all legal recourse for any and all claims for
15 wages.

16 [4-6] Plaintiffs have moved for a summary judgment that the
17 waivers are legally ineffective and do not preclude them from
18 seeking other wages claimed due them.

19 Federal law provides but two methods whereby FLSA wage
20 claims may be settled by employees. First, under 29 U.S.C.
21 §216(c), the Secretary of Labor of the United States may
22 supervise a settlement in which payment of wages is made to
23 employees. An employee who participates in this procedure and
24 accepts the payment waives his or her right to bring suit for
25 unpaid wages or liquidated damages, but only if the employer pays
26 all back wages which are due. 29 U.S.C. §216(c). There is

1 nothing before the Court to contravene the employees' assertion
2 that the Secretary of Labor played no part in the investigation
3 here.

4 FLSA wage disputes may also be resolved in a district
5 court-supervised settlement of a lawsuit brought directly by
6 employees against their employer under 29 U.S.C. §216(b). Lynn's
7 Food Stores, Inc. v. United States, 679 F.2d 1350 (11th Cir.
8 1982). This Court played no role in any of the events leading to
9 the payment by defendants of the sums found to be owing to
10 plaintiffs by the investigation.

11 Defendants' contention that the CNMI fulfilled the role
12 and obligations of the federal government under the FLSA finds no
13 support in the law of the facts here. The CNMI cannot preempt
14 federal law and, absent an express delegation of authority, must
15 abide by federal standards. Also, the Court does not accept, and
16 the record does not support, and defendants have shown nothing to
17 support their contention that the employees' interests were
18 adequately protected by the CNMI agencies involved in the
19 investigation. The employees had no independent legal advice.
20 They were not told of their right to ask for liquidated damages;
21 rather, and most telling, only defendants were told that they
22 might be found liable for liquidated damages.

23 The Court finds that no genuine issue of material fact
24 exists as to this question and that plaintiffs are entitled to
25 summary judgment as a matter of law.

26 [7] Plaintiffs next argue that defendants have failed to

1 demonstrate the defense made available to them by §260 of the
2 FLSA. This section provides that a district court may, in its
3 sound discretion, award an employee liquidated damages in any
4 amount up to the amount of the unpaid wages if the employer shows
5 that the act or omission giving rise to the action was done in
6 good faith and that the employer had a reasonable ground for
7 believing its act or omission did not violate the FLSA. 29
8 U.S.C. §260; 29 C.F.R. §790.22. Plaintiffs contend that this
9 defense applies only to acts or omissions at the time wages were
10 not paid; defendants argue for a more expansive reading of the
11 statute and believe "good faith" can be shown from the employer's
12 conduct throughout the entire episode, up to and including the
13 employer's "good faith" when it pays wages found to be owing.

14 The law is clear on its face. The requirements of good
15 faith and a reasonable ground apply only to the acts or omissions
16 giving rise to the wage claim. It is nonsensical to applaud an
17 employer's "good faith" when it finally pays wages found owing
18 after a full-blown investigation. Since defendants have offered
19 no evidence of "good faith" and "reasonableness," summary
20 judgment on this issue is warranted and granted.

21 [8] Finally, plaintiffs ask that summary judgment be
22 granted on their request for liquidated damages based upon the
23 payments for overtime wages which they have already received.
24 The Court first observes that defendants failed in their duty to
25 offer any specific allegations to support their claim that
26 plaintiffs were not even entitled to the wage payments they

1 received at the conclusion of the investigation. Nevertheless,
2 the Court denies this portion of plaintiffs' motion for partial
3 summary judgment because there remains a genuine issue of
4 material fact.

5 Plaintiffs in their lawsuit are seeking unpaid wages
6 from 1984, 1985, and 1986. In this motion they are seeking a
7 determination that they are entitled to liquidated damages for
8 the payments they received which covered a portion of 1984.
9 Plaintiffs still intend to prove at trial that they are entitled
10 to more wages than they received for the time periods in 1984
11 which were covered by the investigation. Defendants dispute this
12 but offer no countervailing evidence.

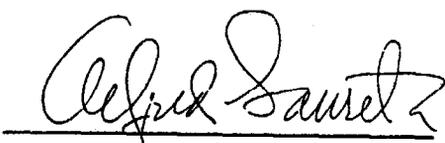
13 The Court may, and hereby does, deny summary judgment
14 on this issue in the exercise of its sound discretion, even
15 though it believes movant technically is entitled to judgment. 6
16 Pt.2 Moore's Federal Practice §56.33, pp. 56-1389. Of necessity,
17 plaintiffs will be required to prove all hours they worked in
18 order to prove they were not fully compensated after the
19 investigation. There is, therefore, no practical method whereby
20 the Court can establish for which hours the payments made were
21 intended to compensate. Granting of summary judgment on this
22 issue would be pointless and would not lessen the quantity of
23 evidence which plaintiffs will be required to offer. As well,
24 defendants may challenge plaintiffs' claims and it would be
25 impossible to delineate which hours defendants can challenge and
26 which they cannot. Therefore, the Court denies summary judgment

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as to this issue.

IT IS SO ORDERED.

DATED this 11th day of December, 1986.



JUDGE ALFRED LAURETA