

Federal Court Denies Class Certification, Preemptively Denies FLSA Collective Action – Class Members’ Experiences Too Varied

October 15, 2013 | [Fair Labor Standards Act](#), [Labor And Employment](#)

Gavel

Plaintiffs seeking class certification of a group of California employees failed to establish that certification was proper, according to a federal district court in California. Additionally, the court preemptively denied approval of a nationwide collective action under the Fair Labor Standards Act, determining that the putative class members’ experiences varied too vastly.

The case, *Till et al. v. Saks, Inc.*, No. C 11-00504 SBA (N.D. Cal. Sept. 30, 2013), was brought by Dawn Till, a former Assistant Manager and Team Merchandise Manager for Defendants, and Mary Josephs, a former Women’s Department Manager and Selling & Service Manager. Plaintiffs alleged that they and other similarly situated employees were misclassified as exempt and not paid overtime wages as required by California and federal law.

Plaintiffs seeking class certification must demonstrate that (1) the putative class is so numerous that joinder of all members is impractical (“numerosity”); (2) the entire class was subject to the same allegedly discriminatory practice (“commonality”); (3) the claims of the representative party are typical of the claims of the class (“typicality”); and (4) the representative party fairly and adequately represents the interests of the proposed class (“adequacy”).

The court determined that the plaintiffs failed to satisfy each of these requirements. It ruled that there were “significant dissimilarities in terms of the experiences of proposed class members that impede the generation of common answers” and that their experiences were only typical of some of the proposed class members. In addition, the plaintiffs failed to demonstrate that a class action was the superior method for fairly and efficiently resolving the controversy.

The court went on to preemptively deny FLSA collective action certification, stating that the “factual record confirms the disparate experiences of putative class members which vary by store and individuals within the same store.” Further, the plaintiffs failed to identify any fairness or procedural considerations that would justify proceeding on a collective action basis.

The federal court’s decision highlights the fact that while FLSA actions remain a hot topic, would-be plaintiffs face significant hurdles in establishing sufficient commonality with respect to members’ experiences and claims.

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