

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

Albert S. Craig et al. v. Far West Engineering Company, Inc.; Far West Engineering Company, Inc. v. Albert S. Craig et al.

265 F.2d 251 (9th Cir. 1959) · No. No. 16040 · Decided April 7, 1959

SUMMARY

The Ninth Circuit affirmed judgments awarding former employees of Far West Engineering Company unpaid overtime compensation, interest, and attorney fees under the Fair Labor Standards Act. The court held that the employees were engaged in the production of goods for commerce and were not exempt executive or professional employees because they were paid on an hourly rather than salary basis. The court also upheld the denial of liquidated damages based on the district court's finding that the employer acted in good faith.

CASE DETAILS

COURT	United States Court of Appeals for the Ninth Circuit
WRITING FOR THE COURT	Barnes, Circuit Judge; Chambers, Circuit Judge; Hamley, Circuit Judge
JURISDICTION	Federal
DECIDED	April 7, 1959
DOCKET	No. 16040
DISPOSITION	affirmed
PROCEDURAL POSTURE	Cross-appeals from judgments of the district court awarding ten former employees unpaid overtime compensation, interest, and attorney's fees under the Fair Labor Standards Act, but denying liquidated damages.
STANDARD OF REVIEW	The court reviewed the district court's application of the Fair Labor Standards Act and its regulations as matters of law, accepted supported factual findings concerning hourly compensation and good faith, and reviewed the refusal to dismiss under Federal Rule of Civil Procedure 37(d) for abuse of discretion.
PRECEDENTIAL VALUE	Published federal appellate opinion; precedential within the Ninth Circuit subject to subsequent authority.

PARTIES

Albert S. Craig et al., Far West Engineering Company, Inc. v. Far West Engineering Company, Inc., Albert S. Craig et al.

TOPICS

flsa wage and hour appellate procedure statutory interpretation remedies

PRACTICE AREAS

employment law wage and hour appellate procedure remedies

QUESTIONS PRESENTED

1. Whether the employees were engaged in the production of goods for commerce under the Fair Labor Standards Act.
2. Whether the employees were exempt executive or professional employees under 29 U.S.C. § 213(a)(1) and the Administrator's regulations despite being paid on an hourly basis.
3. Whether the district court erred by allowing recovery for employees who did not testify at trial and by refusing to dismiss two claims for discovery violations.
4. Whether the employees were entitled to mandatory liquidated damages under the Fair Labor Standards Act.

HOLDINGS

1. Employees who prepared engineering drawings and designs that were shipped for use in an out-of-state plant were engaged in the production of goods for commerce within the Fair Labor Standards Act.
2. Employees paid on an hourly basis could not qualify for the executive or professional exemptions at issue because the governing regulations required compensation on a salary or fee basis.
3. The district court did not abuse its discretion by refusing to dismiss claims because six employees did not testify at trial or because two employees allegedly failed to comply with discovery requirements.
4. The employees were not entitled to liquidated damages because the district court found that Far West acted in good faith in failing to pay overtime.

KEY QUOTATIONS

“The test is ‘whether the work is so directly and vitally related to the functioning of an instrumentality or facility of interstate commerce as to be, in practical effect, a part of it, rather than isolated, local activity.’”
(¶ 12)

“Accordingly we conclude that the district court was correct in ruling that since these employees were paid on an hourly basis they could not, as a matter of law, be within the exempted categories, Far West's contentions notwithstanding.” (¶ 38)

“The judgment of the district court is affirmed in all respects, as to each of the consolidated cases before us.”
(¶ 47)

FACTUAL BACKGROUND

Far West Engineering Company designed air-test equipment and prepared engineering drawings for Hughes Aircraft Company and other clients. Ten employees claimed unpaid overtime compensation for work performed, including work on designs for Hughes's Tucson, Arizona plant, and the record showed that the employees were paid hourly wages. The district court found that the employees were engaged in covered work, were not exempt executive or professional employees because they were not compensated on a salary or fee basis, and that Far West had acted in good faith in failing to pay overtime.

PROCEDURAL HISTORY

Ten consolidated actions were tried in the district court. The district court entered judgments for the employees for unpaid overtime compensation, interest, and attorney's fees, found that the employees were not exempt executive or professional employees, denied liquidated damages based on the employer's good-faith failure to pay overtime, and refused to dismiss claims based on witness nonappearance and discovery violations. Both sides cross-appealed.

DISPOSITION

affirmed

CASES CITED

- Borden Co. v. Borella, 325 U.S. 679, 65 S. Ct. 1223, 89 L. Ed. 1865 (1945)
- Mitchell v. Lublin, McGaughy & Associates, 358 U.S. 207, 79 S. Ct. 260, 3 L. Ed. 2d 243 (1959)
- Kirschbaum Co. v. Walling, 316 U.S. 517, 62 S. Ct. 1116, 86 L. Ed. 1638 (1942)
- Walling v. Jacksonville Paper Co., 317 U.S. 564, 63 S. Ct. 332, 87 L. Ed. 460 (1943)
- Mitchell v. C. W. Vollmer & Co., 349 U.S. 427, 75 S. Ct. 860, 99 L. Ed. 1196 (1955)
- McLeod v. Threlkeld, 319 U.S. 491, 63 S. Ct. 1248, 87 L. Ed. 1538 (1943)
- Mitchell v. Brown, 224 F.2d 359 (8th Cir. 1955), cert. denied, 350 U.S. 875, 76 S. Ct. 119, 100 L. Ed. 773 (1955)
- Ritch v. Puget Sound Bridge & Dredging Co., 156 F.2d 334 (9th Cir. 1946)
- Laudadio v. White Construction Co., 163 F.2d 383 (2d Cir. 1947)
- Western Union Telegraph Co. v. Lenroot, 323 U.S. 490, 65 S. Ct. 335, 89 L. Ed. 414 (1945)
- Smith v. Porter, 143 F.2d 292, 295 (8th Cir. 1944)
- Sun Publishing Co. v. Walling, 140 F.2d 445, 449 (6th Cir. 1944), cert. denied, 322 U.S. 728, 64 S. Ct. 946, 88 L. Ed. 1564 (1944)
- Fanelli v. United States Gypsum Co., 141 F.2d 216 (2d Cir. 1944)
- Walling v. Yeakley, 140 F.2d 830, 832 (10th Cir. 1944)
- Walling v. General Industries Co., 330 U.S. 545, 547-548, 67 S. Ct. 883, 91 L. Ed. 1088 (1947)
- Walling v. Morris, 155 F.2d 832 (6th Cir. 1946)
- Helliwell v. Haberman, 140 F.2d 833 (2d Cir. 1944)

- *McReynolds v. Pocahontas Corp.*, 192 F.2d 301 (4th Cir. 1951)
- *Delano v. Armstrong Rubber Co.*, 136 Conn. 663, 73 A.2d 828 (1950), cert. denied, 340 U.S. 840, 71 S. Ct. 28, 95 L. Ed. 616 (1950)
- *Gorchakoff v. California Shipbuilding Corp.*, 63 F. Supp. 309, 311 (S.D. Cal. 1945)
- *Federal Security Administrator v. Quaker Oats Co.*, 318 U.S. 218, 233, 63 S. Ct. 589, 87 L. Ed. 724 (1943)
- *Hubbard v. Baltimore & Ohio R. Co.*, 249 F.2d 885 (6th Cir. 1957)
- *Campbell v. Johnson*, 101 F. Supp. 705 (D.S.D.N.Y. 1951)

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