

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

Williams v. Enterprise Resource Planning International, LLC

Williams · No. 25-cv-234-BTM-AHG · Decided June 26, 2025

OPINION

Williams v. Enterprise Resource Planning International, LLC

PER CURIAM.

1 2 3 4 5 6 7

8 UNITED STATES DISTRICT COURT

9 SOUTHERN DISTRICT OF CALIFORNIA

10 11 Case No.: 25-cv-234-BTM-AHG

JASMINE WILLIAMS,

12 individually and on behalf of all ORDER DENYING MOTION TO 13 others similarly
situated, DISMISS Plaintiff, 14 v. [ECF NO. 13] 15

ENTERPRISE RESOURCE

16 PLANNING INTERNATIONAL,

LLC; and ERP INTERNATIONAL,

17

LLC,

18 Defendants. 19

20 Pending before the Court is Defendants Enterprise Resource Planning 21 International, LLC
and ERP International, LLC's motion to dismiss Plaintiff Jasmine 22 Williams's First Amended
Complaint (FAC). (ECF No. 13). For the reasons 23 discussed below, the motion is denied. 24

BACKGROUND

25 The FAC asserts a single cause of action under the Fair Labor Standards 26 Act (FLSA) for
failure to pay overtime wages. The FAC alleges that Defendants 27 have violated the FLSA by
failing to include health and wellness payments in 28 1 overtime rates. Under the FLSA, overtime
payments are calculated based on the 2 regular rate of pay, and Plaintiff alleges that the health and
wellness payments 3 must, under the FLSA, be included in the regular rate. See generally Flores v.
City 4 of San Gabriel, 824 F.3d 890, 898 (9th Cir. 2016) (ruling that "cash-in-lieu of 5 benefits
payments may not be excluded under [the FLSA] and therefore must be 6 included in the . . .
regular rate of pay"). 7 The Defendants assert, however, that the health and wellness payments 8
need not be included in the regular rate. According to Defendants' motion to 9 dismiss, Plaintiff's
employment was governed by the Service Contract Act (SCA), 10 and the SCA and its regulations
exempt health and wellness payments from the 11 FLSA's overtime calculations. Plaintiff does not

dispute that the SCA applies here 12 but instead maintains that the health and wellness payments must be included in 13 overtime rates. 14

MOTION TO DISMISS STANDARD

15 A complaint must contain facts “stat[ing] a claim to relief that is plausible on 16 its face.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (citation omitted). “A claim 17 has facial plausibility when the plaintiff pleads factual content that allows the court 18 to draw the reasonable inference that the defendant is liable for the misconduct 19 alleged.” *Id.* On a Rule 12(b)(6) motion to dismiss, a court must accept the factual 20 allegations, but not the legal conclusions, as true. *Id.* 21
22 DISCUSSION

23 A. Defendants have not shown that the fringe benefits payments are exempt from the regular rate of pay. 24 25 The SCA “requires government service contractors to satisfy certain 26 minimum standards for wages and working conditions.” *Menlo Service Corp. v. United States*, 765 F.2d 805, 807 (9th Cir. 1985). The SCA requires employers to 28 provide certain fringe benefits but allows that requirement to “be discharged by 1 furnishing any equivalent combinations of fringe benefits or by making equivalent 2 or differential payments in cash under regulations established by the Secretary.” 3 41 U.S.C. § 6703(2). 41 U.S.C. § 6707(e) addresses whether fringe benefits 4 payments must be included in overtime rates and provides as follows: 5
In determining any overtime pay to which a service employee is entitled under Federal law, the regular or basic 6 hourly rate of pay of the service employee does not include 7 any fringe benefit payments computed under this chapter [41 USCS §§ 6701 et seq.] which are excluded from the 8 definition of “regular rate” under section 7(e) of the Fair 9 Labor Standards Act of 1938. 10
Department of Labor (DOL) regulations provide that fringe benefits payments are 11 not included in overtime calculations. 29 C.F.R. § 778.7 (“If the employer furnishes 12 equivalent benefits or makes cash payments, or both, to an employee as therein 13 authorized, the amounts thereof, to the extent that they operate to discharge the 14 employer’s obligation under the McNamara-O’Hara Act to furnish such specified 15 fringe benefits, may be excluded pursuant to such Act from the employee’s regular 16 or basic rate of pay in computing any overtime pay due the employee under the 17 Fair Labor Standards Act.”); § 4.177(e) (“If [an employer] furnishes equivalent 18 benefits or makes cash payments, or both, to such an employee as authorized 19 herein, the amounts thereof, which discharge the employer’s obligation to furnish 20 such specified fringe benefits, may be excluded pursuant to this Act from the 21 employee’s regular or basic rate of pay in computing any overtime pay due the 22 employee under any other Federal law.”). 23
The FLSA calculates overtime obligations based on a “regular rate” of pay, 24 and FLSA Section 207(e) lists specific categories of remuneration excluded from 25 the regular rate. 29 U.S.C. § 207(e). It is undisputed here that FLSA Section 26 207(e) does not expressly exclude from a regular rate fringe benefits payments 27 like those under the SCA. Instead, Defendants claim that the SCA and the DOL’s 28 1 regulations exclude fringe benefits payments from the FLSA’s overtime 2 calculations. 3 Courts have read Section 6707(e) as simply providing that

fringe benefits 4 payments are excludable from the FLSA regular rate only insofar as they are 5 excluded under Section 207(e). *Oliverio-Still v. AVMAC LLC*, No. 24-cv-0870-L- 6 DEB, 2025 U.S. Dist. LEXIS 37731, *12-13 (S. D. Cal. Mar. 3, 2025); *Bonner v. 7 Metro. Sec. Servs.*, No. SA-10-CV-937-XR, 2011 U.S. Dist. LEXIS 26251, *10-12 8 (W.D. Tex. Mar. 15, 2011); *Barnes v. Akal Sec., Inc.*, No. 04-1350-WEB, 2005 U.S. 9 Dist. LEXIS 12268, *10-17 (D. Kan. June 20, 2005). Under this approach, SCA

10 Section 6707(e) does not exclude fringe benefits payments from the FLSA's 11 regular rate, and the DOL regulations to the contrary do not control. 12 This Court agrees. Under Section 6707(e)'s plain language, fringe benefits 13 payments are excludable from the regular rate of pay only if they are excluded 14 under Section 207(e). In other words, Section 6707(e) simply incorporates Section 15 207(e)'s exceptions, and Defendants have not shown that the fringe benefits 16 payments are excludable under Section 207(e). That section does exclude 17 payments for health insurance from the FLSA regular pay rate if they are made to 18 a third party. 29 U.S.C. § 207(e)(4) (excluding from the regular rate "contributions 19 irrevocably made by an employer to a trustee or third person pursuant to a bona 20 fide plan for providing old-age, retirement, life, accident, or health insurance or 21 similar benefits for employees"). Congress could have excluded cash payments 22 to employees in lieu of actual health insurance coverage from the regular rate, but 23 it chose not to. The absence of cash in lieu of benefits from Section 207(e)'s 24 exclusions shows the drafter's intention not to exclude it. See *Wheeler v. City of 25 Santa Clara*, 894 F.3d 1046, 1054 (9th Cir. 2018) (recognizing the presumption 26 that "when a statute designates certain persons, things, or manners of operation, 27 all omissions should be understood as exclusions" (citation omitted)). Because 28 Defendants' argument is inconsistent with the plain language of Section 6707(e), 1 ||the DOL's regulations do not govern. 2 The plain language of Section 6707(e) governs and precludes Defendants' 3 argument. 4

CONCLUSION

° For the reasons stated, Defendants' motion to dismiss is denied. ° IT IS SO ORDERED. 3 Dated: June 26, 2025 Til Lusch 9 Honade Barry Ted stosenig 10 United States District Judge 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28