

SUPREME COURT OF THE STATE OF NEW YORK, APPELLATE DIVISION,
SECOND JUDICIAL DEPARTMENT

Melamed v. Americare Certified Special Servs., Inc.

2019 N.Y. Slip Op. 00268 (App. Div. 2019) · No. 2016-02524 · Decided January 16, 2019

SUMMARY

The Appellate Division, Second Department, reversed an order dismissing class action allegations in a wage-and-hour action brought by home health aides. The court held that the initial class-certification motion was timely and that defendants' refusal to provide requested payroll data justified denying dismissal and compelling production of the data.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
WRITING FOR THE COURT	Cheryl E. Chambers, J.P.; Leonard B. Austin, J.; Sheri S. Roman, J.; Angela G. Iannacci, J.
JURISDICTION	New York
DECIDED	January 16, 2019
DOCKET	2016-02524
DISPOSITION	reversed
PROCEDURAL POSTURE	Plaintiffs appealed from an order granting defendants' CPLR 3211(a) (7) motion to dismiss the class action allegations and denying as academic plaintiffs' CPLR 3124 cross-motion to compel payroll-data discovery.
STANDARD OF REVIEW	The Appellate Division reviewed the dismissal order for legal error and determined whether the plaintiffs' class-certification motion was timely and whether the requested discovery was material and necessary under the CPLR.
PRECEDENTIAL VALUE	published appellate decision
PARTIES	Raisa Melamed, etc., et al. v. Americare Certified Special Services, Inc., et al.

TOPICS

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QUESTIONS PRESENTED

1. Whether the time limitation for filing a class-certification motion applied to plaintiffs' initial motion, which had already been timely made.
2. Whether defendants could obtain dismissal of the class action allegations based on plaintiffs' failure to renew their certification motion when defendants had withheld material payroll data needed for certification.
3. Whether plaintiffs were entitled under CPLR 3124 to compel production of payroll data material and necessary to evaluate class-certification requirements.

HOLDINGS

1. The time limitation for filing a motion for class certification applies only to a motion for initial certification; plaintiffs' initial class-certification motion was timely.
2. Dismissal of the class action allegations was improper where defendants had refused to provide material payroll data needed to determine whether the prerequisites for class certification could be satisfied.
3. Plaintiffs' CPLR 3124 cross-motion to compel production of the requested payroll data should have been granted.

KEY QUOTATIONS

"The time limitation to file a motion for class certification "applies only to a motion for the initial certification of the class""

"The items of discovery sought are material and necessary to the determination of whether the plaintiffs "will fairly and adequately protect the interests of the class""

FACTUAL BACKGROUND

The plaintiffs were home health aides employed by defendants who often worked 24-hour live-in shifts. They alleged that defendants underpaid minimum and overtime wages in violation of New York Labor Law articles 6 and 19 and applicable Department of Labor wage orders and regulations. Plaintiffs sought payroll data concerning the proposed class to evaluate the requirements for class certification, but defendants refused to provide the requested information.

PROCEDURAL HISTORY

Plaintiffs brought a putative class action alleging underpayment of minimum and overtime wages. The Supreme Court previously denied defendants' motion to dismiss and denied plaintiffs' initial class-certification motion without prejudice to renewal after limited discovery. After defendants refused to produce requested payroll data,

they moved to dismiss the class allegations for failure to timely renew the certification motion; the Supreme Court granted that motion and denied plaintiffs' discovery cross-motion as academic. The Appellate Division reversed, denied dismissal, and granted the motion to compel.

DISPOSITION

reversed

REMAND INSTRUCTIONS

The lower court's order was reversed; defendants' motion to dismiss the class action allegations was denied, and plaintiffs' cross-motion to compel production of the requested payroll data was granted.

CASES CITED

- O'Brien v. GEICO Ins. Co., 99 A.D.3d 683, 684
- Louisiana Mun. Employees' Ret. Sys. v. Cablevision Sys. Corp., 74 A.D.3d 1291, 1293
- Chavarria v. Crest Hollow Country Club at Woodbury, Inc., 109 A.D.3d 634, 634
- Rodriguez v. Metropolitan Cable Communications, 79 A.D.3d 841, 842
- Galdamez v. Biordi Constr. Corp., 50 A.D.3d 357, 358