UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

Greist v. LendUS, LLC

Greist · No. 24-cv-02411-AMO · Decided February 25, 2025

SUMMARY

The Northern District of California denied CrossCountry Mortgage, LLC's motion to dismiss claims alleging that it is liable as LendUS, LLC's successor for wage-and-hour violations under the Fair Labor Standards Act and California law. The court held that the plaintiffs plausibly alleged CrossCountry had notice of potential employment liabilities through acquisition due diligence and that LendUS had been subsumed into CrossCountry, satisfying the pleading-stage requirements for successor liability. The court also noted that CrossCountry waived its challenge to the first successor-liability factor by raising it for the first time in reply.

CASE DETAILS

COURT	United States District Court for the Northern District of California
WRITING FOR THE COURT	Araceli Martinez-Olguin
JURISDICTION	United States District Court for the Northern District of California
DECIDED	February 25, 2025
DOCKET	24-cv-02411-AMO
DISPOSITION	other
PROCEDURAL POSTURE	Defendant CrossCountry Mortgage, LLC moved to dismiss the amended complaint with prejudice under the successor-in-interest theory of liability.
STANDARD OF REVIEW	On a motion to dismiss, well-pleaded allegations must be accepted as true and construed in the light most favorable to the plaintiffs; the allegations must plausibly establish entitlement to relief.
PRECEDENTIAL VALUE	unpublished district court order

TOPICS

wage and hour · flsa · motions to dismiss · employment law · civil procedure

PRACTICE AREAS

employment law · wage and hour · civil procedure · successor liability

QUESTIONS PRESENTED

1. Whether the amended complaint plausibly alleged that CrossCountry had notice of LendUS's potential wage-and-hour liabilities for purposes of successor-in-interest liability.
2. Whether the amended complaint plausibly alleged that LendUS could not provide adequate relief directly because its assets and operations had been acquired and subsumed by CrossCountry.
3. Whether CrossCountry's motion to dismiss should be denied at the pleading stage.

HOLDINGS

1. The amended complaint plausibly alleged facts supporting successor-in-interest liability because it alleged that CrossCountry had or should have had notice of LendUS's wage-and-hour violations during acquisition due diligence and that LendUS had been subsumed into CrossCountry, potentially limiting LendUS's ability to provide adequate relief.
2. CrossCountry waived its challenge to the bona-fide-successor factor by raising that argument for the first time in reply.

KEY QUOTATIONS

> *"A successor-in-interest may be liable for its predecessor's labor law violations depending on whether "1) the subsequent employer was a bona fide successor[,] . . . 2) the subsequent employer had notice of the potential liability," and 3) "the extent to which the predecessor is able to provide adequate relief directly.""* (at 1)

> *"But for purposes of the instant motion to dismiss, the well-pleaded allegations in Plaintiffs' operative complaint must be taken as true and viewed in the light most favorable to them."* (at 2)

FACTUAL BACKGROUND

Plaintiffs alleged that CrossCountry acquired LendUS, a thriving company that was not in financial distress, creating a combined company with more than 600 branches and over 8,000 employees. They alleged that CrossCountry continued LendUS's mortgage-lending services and maintained its operations, employees, locations, facilities, equipment, and marketplace activities without significant change. Plaintiffs further alleged that CrossCountry knew or should have known of LendUS's unpaid overtime liabilities through acquisition due diligence and that LendUS had been wholly subsumed into or rolled over into CrossCountry.

PROCEDURAL HISTORY

Barbara Greist, Susan Schell, and Melanie Green filed a proposed collective and class action against LendUS, LLC and CrossCountry Mortgage, LLC, asserting claims under the Fair Labor Standards Act and California law. CrossCountry moved to dismiss, arguing that the plaintiffs had not plausibly alleged facts establishing successor-in-interest liability. The court denied the motion to dismiss.

DISPOSITION

other

CASES CITED

- Steinbach v. Hubbard, 51 F.3d 843, 845-46 (9th Cir. 1995)
- Criswell v. Delta Air Lines, Inc., 868 F.2d 1093, 1094 (9th Cir. 1989)
- Wheeler v. Snyder Buick, Inc., 794 F.2d 1228, 1237 (7th Cir. 1986)
- Xue Ming Wang v. Abumi Sushi Inc., 262 F. Supp. 3d 81 (S.D.N.Y. 2017)
- Manzarek v. St. Paul Fire & Marine Ins. Co., 519 F.3d 1025, 1031 (9th Cir. 2008)
- Musikiwamba v. ESSI, Inc., 760 F.2d 740, 752 (7th Cir. 1985)
- Lowenthal v. ...