

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ARIZONA

Mindy Zommick v. Lewis Construction Company LLC, et al.

No. CV-23-00636-PHX-DJH (D. Ariz. Feb. 9, 2026) · No. No. CV-23-00636-PHX-DJH · Decided February 9, 2026

SUMMARY

The United States District Court for the District of Arizona grants Plaintiff Mindy Zommick’s motion for default judgment against Lewis Construction Company LLC, Chad Lewis, Brandin Lewis, and Jenniffer Lewis. The order addresses claims under the Fair Labor Standards Act, Arizona Minimum Wage Act, and Arizona Wage Act, finding that Plaintiff adequately alleged unpaid regular and overtime wages. The Court discusses statutory damages and concludes that damages should be awarded under the applicable federal and state wage laws.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                    |
|-----------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | United States District Court for the District of Arizona                                                                                                                                                                                           |
| WRITING FOR THE COURT | Diane J. Humetewa                                                                                                                                                                                                                                  |
| JURISDICTION          | United States District Court for the District of Arizona                                                                                                                                                                                           |
| DECIDED               | February 9, 2026                                                                                                                                                                                                                                   |
| DOCKET                | No. CV-23-00636-PHX-DJH                                                                                                                                                                                                                            |
| DISPOSITION           | other                                                                                                                                                                                                                                              |
| PROCEDURAL POSTURE    | Plaintiff moved for entry of default judgment under Federal Rule of Civil Procedure 55(b) after the Clerk entered defaults against all defendants. The defendants did not respond to the motion.                                                   |
| STANDARD OF REVIEW    | Entry of default judgment under Rule 55(b) is discretionary. In evaluating default judgment, the court considers the Eitel factors; well-pleaded allegations other than those concerning damages are accepted as true, but damages must be proven. |
| PRECEDENTIAL VALUE    | unpublished                                                                                                                                                                                                                                        |
| PARTIES               | Mindy Zommick v. Lewis Construction Company LLC, Chad Lewis, Brandin Lewis, Jenniffer Lewis                                                                                                                                                        |

TOPICS

- default judgment
- wage and hour
- flsa
- damages
- civil procedure

## PRACTICE AREAS

employment law

wage and hour

fair labor standards

civil procedure

remedies

## QUESTIONS PRESENTED

1. Whether the Eitel factors supported entry of default judgment against all defendants.
2. Whether the complaint sufficiently pleaded that the defendants were employers and that Zommick was an employee under the FLSA and Arizona Minimum Wage Act.
3. Whether the complaint sufficiently pleaded FLSA overtime and minimum-wage violations.
4. Whether the complaint sufficiently pleaded Arizona Minimum Wage Act and Arizona Wage Act violations.
5. Whether damages, including liquidated or treble damages, were adequately supported and could be imposed jointly and severally.

## HOLDINGS

1. The Eitel factors weigh in favor of entering default judgment against all defendants because Plaintiff would otherwise lack a judicial remedy, the claims are sufficiently pleaded, the requested damages are proportionate, no material factual dispute remains, the default was not attributable to excusable neglect, and the preference for decisions on the merits does not preclude relief under Rule 55(b).
2. The allegations plausibly established that Lewis Construction Company LLC, Chad Lewis, Brandin Lewis, and Jenniffer Lewis were employers and that Zommick was an employee rather than an independent contractor under the FLSA.
3. Zommick plausibly pleaded violations of the FLSA overtime and minimum-wage provisions.
4. Zommick plausibly pleaded a violation of the Arizona Minimum Wage Act against all defendants.
5. Zommick plausibly pleaded an Arizona Wage Act violation against Lewis Construction Company LLC, but the individual defendants were not employers subject to liability for the alleged wholesale failure to pay wages by the corporate employer.
6. The court awarded \$7,096.70 against all defendants jointly and severally and an additional \$5,965.90 against Lewis Construction Company LLC alone, plus post-judgment interest; Plaintiff could seek costs and attorney fees under Local Rule of Civil Procedure 54.2.

## KEY QUOTATIONS

*“A district court’s decision to enter a default judgment is discretionary.” (at 2)*

*“The circumstances of the whole activity, instead of the presence or absence of any one specific factor, are dispositive in determining whether there was an employee or employer relationship.” (at 4)*

*“Cases should be decided upon their merits whenever reasonably possible.” (at 8)*

## FACTUAL BACKGROUND

Zommick alleged that Defendants misclassified her as an independent contractor while she performed cable-installation work for Lewis Construction Company LLC. She alleged that she worked without pay from November 1 through December 27, 2022, including unpaid regular and overtime hours. The individual defendants were alleged to control employment decisions and conditions, while Lewis Construction Company LLC was the corporate employer for purposes of the Arizona Wage Act.

#### PROCEDURAL HISTORY

Zommick filed claims under the Fair Labor Standards Act, the Arizona Minimum Wage Act, and the Arizona Wage Act. Defendants were served or waived service, initially answered, and then failed to defend after their answers were struck. The Clerk entered default on November 26, 2024. The court granted default judgment, awarded damages, authorized a later motion for costs and attorney fees, and closed the case.

#### DISPOSITION

other

#### CASES CITED

- Aldabe v. Aldabe, 616 F.2d 1089, 1092 (9th Cir. 1980)
- Geddes v. United Financial Group, 559 F.2d 557, 560 (9th Cir. 1977)
- TeleVideo Systems, Inc. v. Heidenthal, 826 F.2d 915, 917-18 (9th Cir. 1987)
- Eitel v. McCool, 782 F.2d 1470, 1471-72 (9th Cir. 1986)
- Elektra Entertainment Group, Inc. v. Crawford, 226 F.R.D. 388, 392 (C.D. Cal. 2005)
- PepsiCo, Inc. v. California Security Cans, 238 F. Supp. 2d 1172, 1177 (C.D. Cal. 2002)
- Danning v. Lavine, 572 F.2d 1386, 1388 (9th Cir. 1978)
- Ramos Perez v. Evolet's Painting Services LLC, 2025 WL 4063609, at \*2 (D. Ariz. Dec. 15, 2025)
- Dr. JKL Ltd. v. HPC IT Education Center, 749 F. Supp. 2d 1038, 1048 (N.D. Cal. 2010)
- Barrentine v. Arkansas-Best Freight System, Inc., 450 U.S. 728, 739 (1981)
- Adame v. North Mountain Foothills Apartments LLC, 2025 WL 1927673, at \*2 (D. Ariz. July 14, 2025)
- Rutherford Food Corp. v. McComb, 331 U.S. 722, 728-29 (1947)
- Gilbreath v. Cutter Biological, Inc., 931 F.2d 1320, 1324 (9th Cir. 1991)
- Bonnet v. California Health & Welfare Agency, 704 F.2d 1465, 1470 (9th Cir. 1983)
- Real v. Driscoll Strawberry Ass'n, 603 F.2d 748, 754-55 (9th Cir. 1979)
- Donovan v. Sureway Cleaners, 656 F.2d 1368, 1371-72 (9th Cir. 1981)
- Landers v. Quality Communications, Inc., 771 F.3d 638, 646 (9th Cir. 2014)
- Smith v. Helton Brewing Company LLC, 2023 WL 5135142, at \*3 (D. Ariz. Aug. 10, 2023)
- Rosen v. Fasttrack Foods LLC, 2021 WL 2981590, at \*5 (D. Ariz. July 15, 2021)
- Channel v. Home Mortgage, Inc., 2005 WL 8160525, at \*14 (D. Ariz. Sept. 21, 2005)
- Peralta v. Custom Image Pros LLC, 2023 WL 8455120, at \*4 (D. Ariz. Dec. 6, 2023)
- Twentieth Century Fox Film Corp. v. Streeter, 438 F. Supp. 2d 1065, 1071 (D. Ariz. 2006)

- Franchise Holding II, LLC v. Huntington Restaurants Group, Inc., 375 F.3d 922, 926 (9th Cir. 2004)
- Phillip Morris USA, Inc. v. Castworld Products, Inc., 219 F.R.D. 494, 498 (C.D. Cal. 2003)
- Patton v. Mohave County, 741 P.2d 301, 305 (Ariz. Ct. App. 1987)
- Swanson v. Image Bank, Inc., 43 P.3d 174, 184 (Ariz. Ct. App. 2002), aff'd in part, vacated in part, 77 P.3d 439
- Xalamihua v. GGC Legacy Janitorial Services LLC, 2023 WL 8891393, at \*6 (D. Ariz. Dec. 26, 2023)
- Valenzuela v. Esser, 2023 WL 2815548, at \*7 (D. Ariz. Mar. 14, 2023)

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