

UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Jennifer Miller v. Southwest Airlines Company

926 F.3d 898 (7th Cir. 2019) · No. No. 18-3476, No. 19-1785 · Decided June 13, 2019

SUMMARY

The Seventh Circuit held that claims under Illinois's Biometric Information Privacy Act (BIPA) against air carriers for using fingerprint timekeeping systems are minor disputes under the Railway Labor Act (RLA) because they require interpretation of collective bargaining agreements, and thus must be submitted to an adjustment board rather than litigated in court. The court also found that the plaintiffs had Article III standing based on the concrete interest in the terms and conditions of employment and the increased risk of data disclosure. The suit against Southwest was affirmed as properly dismissed, and the suit against United was vacated and remanded with instructions to refer the dispute to an adjustment board, with federal question jurisdiction supporting removal.

CASE DETAILS

COURT	United States Court of Appeals for the Seventh Circuit
WRITING FOR THE COURT	Easterbrook; Wood; Bauer
JURISDICTION	Federal
DECIDED	June 13, 2019
DOCKET	No. 18-3476, No. 19-1785
DISPOSITION	The judgment in Miller v. Southwest Airlines is affirmed. The judgment in Johnson v. United Airlines is vacated, and the case is remanded with instructions to refer the parties' dispute to an adjustment board.
PROCEDURAL POSTURE	Appeal from dismissal for improper venue/pleadings and from remand order.
STANDARD OF REVIEW	De novo review of dismissal and jurisdictional issues.
PRECEDENTIAL VALUE	Published
PARTIES	Jennifer Miller, Scott Poole, Kevin Englund; United Airlines, Inc. and United Continental Holdings, Inc. v. Southwest Airlines Co.; David Johnson

TOPICS

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employment law

PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether the plaintiffs' BIPA claims against air carriers constitute 'minor disputes' under the Railway Labor Act that must be resolved by an adjustment board.
2. Whether the plaintiffs have Article III standing to sue under BIPA.
3. Whether the suit against United Airlines was properly removed to federal court.

HOLDINGS

1. Yes, because the claims necessarily involve the interpretation and application of collective bargaining agreements, and thus must be resolved by an adjustment board, not by a court.
2. Yes, because the plaintiffs seek a material change in their terms and conditions of employment (discontinuation of fingerprinting or higher wages), and because the alleged retention of biometric data and use of third parties creates a risk of disclosure, which is a concrete injury.
3. Yes, a union qualifies as a legally authorized representative under BIPA.
4. Yes, because the claims are completely preempted by the Railway Labor Act, thus arising under federal law for jurisdictional purposes.

KEY QUOTATIONS

"A dispute about the interpretation or administration of a collective bargaining agreement must be resolved by an adjustment board under the Railway Labor Act." (at 7)

"The prospect of a material change in workers' terms and conditions of employment gives these suits a concrete dimension that Spokeo, Groshek, and Casillas lacked." (at 6)

"We reject plaintiffs' contention that a union is not a 'legally authorized representative' for this purpose. Neither the statutory text nor any decision by a state court suggests that Illinois wants to exclude a collective-bargaining representative from the category of authorized agents." (at 8)

FACTUAL BACKGROUND

Southwest Airlines and United Airlines use fingerprint-based timekeeping systems for their employees. Plaintiffs, employees of the airlines, filed suit under the Illinois Biometric Information Privacy Act (BIPA), alleging that the airlines failed to obtain proper consent, failed to publish data retention protocols, and used third-party vendors, constituting prohibited disclosures. The airlines contend that the plaintiffs' unions consented to the fingerprinting through collective bargaining agreements or management-rights clauses.

PROCEDURAL HISTORY

The district court in Miller dismissed the suit, holding that the dispute must go to an adjustment board under the Railway Labor Act. The district court in Johnson dismissed for lack of Article III standing and remanded to state court. Both rulings were appealed.

DISPOSITION

The judgment in Miller v. Southwest Airlines is affirmed. The judgment in Johnson v. United Airlines is vacated, and the case is remanded with instructions to refer the parties' dispute to an adjustment board.

REMAND INSTRUCTIONS

On remand, the district court should refer the dispute to the appropriate adjustment board under the Railway Labor Act.

CASES CITED

- Hawaiian Airlines, Inc. v. Norris, 512 U.S. 246, 252-53 (1994)
- Spokeo, Inc. v. Robins, 136 S. Ct. 1540 (2016)
- Groshek v. Time Warner Cable, Inc., 865 F.3d 884 (7th Cir. 2017)
- Casillas v. Madison Avenue Associates, Inc., No. 17-3162 (7th Cir. June 4, 2019)
- Robertson v. Allied Solutions, LLC, 902 F.3d 690, 697 (7th Cir. 2018)
- Remijas v. Neiman Marcus Group, LLC, 794 F.3d 688 (7th Cir. 2015)
- Lewert v. P.F. Chang's China Bistro, Inc., 819 F.3d 963 (7th Cir. 2016)
- Dieffenbach v. Barnes & Noble, Inc., 887 F.3d 826 (7th Cir. 2018)
- Carlson v. CSX Transportation, Inc., 758 F.3d 819, 824-25 (7th Cir. 2014)
- Brotherhood of Maintenance of Way Employees v. Norfolk Southern Ry., 745 F.3d 808 (7th Cir. 2014)
- Brown v. Illinois Central R.R., 254 F.3d 654 (7th Cir. 2001)
- Oakey v. U.S. Airways Pilots Disability Plan, 723 F.3d 227 (D.C. Cir. 2013)
- Emswiler v. CSX Transportation, Inc., 691 F.3d 782 (6th Cir. 2012)
- Fort Bend County v. Davis, No. 18-525 (U.S. June 3, 2019)
- Pittsburgh & Lake Erie R.R. v. Railway Labor Executives' Association, 491 U.S. 490, 508 n.17 (1989)
- Norfolk & Western Ry. v. American Train Dispatchers' Association, 499 U.S. 117, 122 (1991)
- Brotherhood of Locomotive Engineers v. Union Pacific R.R., 879 F.3d 754, 756 (7th Cir. 2017)
- International Association of Machinists v. Street, 367 U.S. 740, 760 (1961)
- Lingle v. Norge Division of Magic Chef, Inc., 486 U.S. 399 (1988)
- Hughes v. United Air Lines, Inc., 634 F.3d 391 (7th Cir. 2011)
- Franchise Tax Board v. Construction Laborers Vacation Trust, 463 U.S. 1, 23-24 (1983)
- Lehmann v. Brown, 230 F.3d 916, 919-20 (7th Cir. 2000)
- Rockwell International Corp. v. United States, 549 U.S. 457, 473-74 & n.6 (2007)

