

SUPREME COURT OF ARKANSAS

Arkansas Department of Veterans Affairs v. Okeke

2015 Ark. 275 (Ark. 2015) · No. CV-14-1011 · Decided June 18, 2015

SUMMARY

The Arkansas Supreme Court affirmed an order certifying a class action brought by nurses and certified nursing assistants alleging unpaid overtime under the Arkansas Minimum Wage Act. The court held that commonality, predominance, and superiority were satisfied because the legality and reasonableness of the employer's meal-break deduction and time-reclamation policies could be addressed on a classwide basis, while individualized damages issues did not defeat certification.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                |
|-----------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of Arkansas                                                                                                                                                                                                                      |
| WRITING FOR THE COURT | Robin F. Wynne, Associate Justice; Robin F. Wynne; Baker; Hart; Wood                                                                                                                                                                           |
| JURISDICTION          | Arkansas                                                                                                                                                                                                                                       |
| DECIDED               | June 18, 2015                                                                                                                                                                                                                                  |
| DOCKET                | CV-14-1011                                                                                                                                                                                                                                     |
| DISPOSITION           | affirmed                                                                                                                                                                                                                                       |
| PROCEDURAL POSTURE    | Interlocutory appeal from an order of the Pulaski County Circuit Court granting class certification in an action alleging unpaid overtime under the Arkansas Minimum Wage Act.                                                                 |
| STANDARD OF REVIEW    | Class-certification decisions are reviewed for abuse of discretion. The appellate court focuses on whether the record supports the certification decision and does not examine the merits of the underlying claims at the certification stage. |
| PRECEDENTIAL VALUE    | Published Arkansas Supreme Court opinion; precedential                                                                                                                                                                                         |
| PARTIES               | Arkansas Department of Veterans Affairs d/b/a Arkansas Veterans Home and Fayetteville Veterans Home v. Darlene Okeke et al.                                                                                                                    |

TOPICS

- class actions
- wage and hour
- civil procedure
- interlocutory appeal
- standard of review

## PRACTICE AREAS

civil procedure

class actions

employment law

wage and hour

appellate procedure

## QUESTIONS PRESENTED

1. Whether the circuit court abused its discretion in finding commonality for a proposed class asserting unpaid-overtime claims based on automatic meal-break deductions and pre- and post-shift work.
2. Whether common questions predominated over individualized questions under Arkansas Rule of Civil Procedure 23.
3. Whether a class action was the superior method of adjudicating the claims.
4. Whether the court could consider the merits of the AMWA claims when deciding class certification.

## HOLDINGS

1. Commonality was satisfied because the legality of ADVA's automatic meal-break deduction policy and the reasonableness of its time-reclamation policy could be determined on a classwide basis, even though individual questions concerning whether particular employees followed the policy and suffered damages remained.
2. Common questions predominated because the overarching questions concerning ADVA's alleged wrongdoing and the legality or reasonableness of its policies could be resolved for the class before individualized damages issues.
3. The superiority requirement was satisfied because class certification was an efficient and fair method of resolving common issues, with individual matters capable of being addressed later if necessary.
4. Neither the circuit court nor the appellate court should decide whether the plaintiffs will ultimately prevail or whether they have a cause of action when determining whether Rule 23's certification requirements are met.

## KEY QUOTATIONS

*“Based on the above, we agree with appellees that there are actually two central questions: whether ADVA’s time reclamation policy is reasonable (liability) and whether each plaintiff or potential plaintiff followed the policy (damages).”* (at 8)

*“Whether ADVA has a reasonable reclamation process for claiming overtime—missed lunch breaks that were automatically deducted and pre- and post-shift work—is a question that predominates over individual issues, which primarily go to damages.”* (at 10-11)

## FACTUAL BACKGROUND

The appellees were hourly, nonexempt nurses and certified nursing assistants employed at Arkansas Veterans Home facilities in Little Rock and Fayetteville. They alleged that ADVA automatically deducted thirty minutes for meal breaks even when employees worked through those breaks and required employees to perform uncompensated work before and after scheduled shifts. They also alleged that understaffing and ADVA's time-reclamation policies prevented them from reporting or receiving compensation for all overtime worked.

## PROCEDURAL HISTORY

Registered nurses, licensed practical nurses, and certified nursing assistants sued the Arkansas Department of Veterans Affairs, alleging that automatic meal-break deductions and uncompensated pre- and post-shift work caused them to work unpaid overtime. The circuit court ruled that the AMWA did not authorize a straight-time claim, limited the case to unpaid or underpaid overtime, and granted class certification under Arkansas Rule of Civil Procedure 23. ADVA challenged commonality, predominance, and superiority in an interlocutory appeal.

## DISPOSITION

affirmed

## CASES CITED

- ChartOne, Inc. v. Raglon, 373 Ark. 275, 283 S.W.3d 576 (2008)
- Carquest of Hot Springs, Inc. v. General Parts, Inc., 367 Ark. 218, 238 S.W.3d 916 (2006)
- Baptist Health v. Hutson, 2011 Ark. 210, 382 S.W.3d 662 (2011)
- Helmert v. Butterball, LLC, 805 F. Supp. 2d 655 (E.D. Ark. 2011)
- Beverly Enterprises-Arkansas, Inc. v. Thomas, 370 Ark. 310, 259 S.W.3d 445 (2007)
- Tay-Tay, Inc. v. Young, 349 Ark. 675, 80 S.W.3d 365 (2002)
- Diamante, LLC v. Dye, 2013 Ark. 501, 430 S.W.3d 710 (2013)
- Johnson's Sales Co. v. Harris, 370 Ark. 387, 260 S.W.3d 273 (2007)
- White v. Baptist Memorial Health Care Corp., 699 F.3d 869 (6th Cir. 2012)
- Hill v. United States, 751 F.2d 810 (6th Cir. 1984)
- Resendiz-Ramirez v. P & H Forestry, LLC, 515 F. Supp. 2d 937 (W.D. Ark. 2007)
- Rosenow v. Alltel Corp., 2010 Ark. 26, 358 S.W.3d 879 (2010)
- Union Pacific Railroad v. Vickers, 2009 Ark. 259, 308 S.W.3d 573 (2009)
- FirstPlus Home Loan Owner 1997-1 v. Bryant, 372 Ark. 466, 277 S.W.3d 576 (2008)
- Summons v. Missouri Pacific Railroad, 306 Ark. 116, 813 S.W.2d 240 (1991)
- Philip Morris Companies, Inc. v. Miner, 2015 Ark. 73, 462 S.W.3d 313 (2015)
- Williamson v. Sanofi Winthrop Pharmaceuticals, Inc., 347 Ark. 89, 60 S.W.3d 428 (2001)
- Baker v. Wyeth-Ayerst Laboratories, 338 Ark. 242, 992 S.W.2d 797 (1999)