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BLOGS

Class Actions

Federal Court in California Denies Class Certification to Franchisees Claiming to be Employees

The United States District Court for the Northern District of California recently denied class certification to a group of plaintiffs alleging that they were misclassified as franchisees rather than employees. *Soares v. Flowers Foods, Inc.*, 2017 WL 2793807 (N.D. Cal. June 28, 2017). The plaintiffs were all distributors who delivered, or hired their own subcontractors to deliver, baked goods for Flowers Foods and its network of subsidiaries. Flowers had classified the plaintiffs as franchisees rather than employees, as expressed in each plaintiff's distributor agreement. The plaintiffs alleged that Flowers had misclassified them as franchisees and asserted wage and hour claims based on that misclassification. The plaintiffs sought class certification under Federal Rule of Civil Procedure 23(b)(3), which requires the court to find "that the questions of law or fact common to class members predominate over any questions affecting only individual members, and that a class action is superior to other available methods for fairly and efficiently adjudicating the controversy."

The court found that the plaintiffs met the class certification threshold requirements of Rule 23(a) (numerosity, typicality, adequacy of representation, and commonality) primarily because the putative class members' claims were all based on a uniform distributor agreement. The court held, however, that class certification was inappropriate nonetheless because the plaintiffs did not satisfy the predominance or superiority requirements of Rule 23(b)(3). In reaching that conclusion, the court recognized that Flowers' right of control over the plaintiffs supported a finding of predominance, noting that the key inquiry is not the degree of control Flowers actually exercised but rather the degree of control Flowers retained the right to exercise. Yet, the court ultimately held that issues common to the class did not predominate over issues affecting individual class members, reasoning that "the nature of the [distributors'] businesses—namely, differences in their operations, such as whether they hired sub-drivers and whether they contracted with other companies—[would] require individual inquiries." Additionally, the court held that a class action would not be superior to individual trials "because any classwide trial would be derailed by individualized inquiries into whether, when, and for how many hours each Distributor 'personally serviced' her route, making a class action no more efficient or convenient than numerous individual trials."

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