

BLOGS

Employment

Franchisee's Employee Pleads Plausible Joint-Employer Claim

The United States District Court for the District of New Jersey recently held that Zevin Curtis Ward, an employee of a franchised automotive repair business, sufficiently alleged that franchisor Cottman Transmission Systems acted as his joint employer. *Ward v. Cottman Transmission*, 2019 WL 643605 (D.N.J. Feb. 14, 2019). Ward brought claims of workplace discrimination, retaliation, and creation of a hostile work environment under Title VII of the Civil Rights Act of 1964 and the New Jersey Law Against Discrimination, together with allegations of unpaid overtime under the Fair Labor Standards Act. Cottman filed a motion to dismiss, claiming, among other things, that Ward could not plausibly show that Cottman was Ward's employer or joint employer.

In holding that Ward had adequately pleaded a joint-employer relationship, the court pointed to his allegation that Cottman "instructed" the franchisee who owned the shop "on the methods, procedures, and techniques of operating [the location], including business procedures, evaluation of personnel, hours of operation, [and] inspection." The court further observed that portions of the license agreement between the franchisee and Cottman supported Ward's claims, including provisions that gave Cottman the power to (1) set the minimum days of the week and hours per week the location was open; (2) set the methods, procedures, and techniques used for work at the shop; (3) inspect the premises, books, and records; (4) meet with the location's employees and customers; and (5) assist the location in finding and evaluating personnel. While recognizing that Ward's complaint was imperfect and not exceedingly specific, the court concluded that he plausibly alleged that Cottman exercised control over the manner and means of his work and had some authority in personnel decisions. Accordingly, Ward's allegations were sufficient to state claims under Title VII and the FLSA, and the court denied Cottman's motion to dismiss.

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