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## BLOGS

Employment

# Franchisor Wins Latest Round in the *Awuah* Saga

The battle continues in the case of *Awuah v. Coverall North America*. As regular readers of The GPMemorandum will recall, *Awuah* is a class action matter involving janitorial services franchisees. The lawsuit asserts that the class of franchisees should be considered to be employees, instead of as franchisees and independent contractors, for purposes of applying minimum wage and overtime laws. As first reported in Issue 130 of The GPMemorandum (May 2010), the franchisee class survived summary judgment on its claims, sounding alarm bells throughout the franchising community. As noted in Issues 131 and 136, however, Coverall overcame the original adverse ruling on potential liability, by securing favorable rulings on the franchisees' damages case. The most recent ruling in *Awuah* involves ten arbitration claimants that were separated from the class because the arbitration clauses in their franchise agreements were found to be valid and enforceable. *Awuah v. Coverall N. Am.*, U.S. App. Lexis 18165 (1st Cir. Aug. 30, 2013). When the judge in the underlying district court matter issued a ruling that threatened to expand class of plaintiffs, Coverall asked for and received a 60-day stay of the arbitration proceeding with the ten arbitration claimants, while it considered its appeal options regarding the ruling. In connection with the skirmishing over the issue of class certification, the 60-day stay of arbitration, and a subsequent bench order from the district court instructing the parties to present motions to the court, the district court sanctioned Coverall for what it perceived was a violation of the bench ruling. On appeal of the order for sanctions, however, the First Circuit now has held that the district court's bench order did not explicitly and unambiguously lift the 60-day stay and that Coverall's argument to the arbitrator was reasonable based on the plain words of the bench order. The order for sanctions against Coverall therefore was vacated.

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