

BLOGS

Employment

Massachusetts Federal Court Declines to Dismiss Parent Company Based on Plausible Allegations of Joint Employer Status

In another case involving joint employer allegations, a federal court in Massachusetts denied a motion to dismiss brought by Enterprise Holdings, Inc. (Enterprise), finding that the plaintiff Mamadou Bah plausibly alleged Enterprise was his joint employer. *Bah v. Enter. Rent-A-Car Co. of Bos., LLC*, 2020 WL 6701324 (D. Mass. Nov. 13, 2020). Plaintiff was an assistant manager employed by Enterprise-Boston, an independent regional subsidiary of Enterprise, and alleged that Enterprise-Boston and Enterprise violated the Fair Labor Standards Act and the Massachusetts Overtime Law when he was moved from exempt to non-exempt status and not afforded back pay. Enterprise moved to dismiss, arguing that it did not jointly employ Bah under the FLSA. The court disagreed finding that pursuant to the *Baystate* test applied by the First Circuit Bah alleged facts sufficient to support an inference that Enterprise was his joint employer.

Under the FLSA, when two or more employers jointly employ someone, the joint employers are held jointly and severally liable. In deciding if a defendant is an employer, the courts look to the economic reality of the totality of the circumstances bearing on whether the putative employee is economically dependent on the alleged employer. To do so, *Baystate* directs courts to consider four factors. The DOL regulations promulgated on January 21, 2020 regarding the interpretation of joint employer under the FLSA were consistent with the approach in *Baystate*, which the court applied to Bah's claims. First, the court considered whether Enterprise had the power to hire and fire employees, and found that Enterprise's guidelines did not give Enterprise this ability. Second, the court considered whether Enterprise supervised and controlled employee work schedules or conditions of employment. Here, the court found Enterprise's guides, policies, and procedures controlled the conditions of employment by addressing employee time off, creating uniform job descriptions, and implementing uniform authority for assistant managers across all regional subsidiaries. Third, in analyzing whether Enterprise determined the rate and method of payment, the court found Enterprise did impose policies addressing pay structure, time off, and exempt status on a nationwide basis. Fourth, in considering whether Enterprise maintained employment records, the court found Enterprise maintained records of employee benefits, clocked hours, and time off. Therefore, under the totality of the circumstances, Bah alleged facts plausibly supporting Enterprise's status as a joint employer under the FLSA. The court denied Enterprise's motion to dismiss.

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