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BLOGS

Employment

Michigan Federal District Court Denies Conditional Certification of Wage and Hour Action Against McDonald's Corporation

McDonald's Corporation is in the legal news again, but this time with a victory. In the midst of all the fanfare about McDonald's "joint employer" battle with the National Labor Relations Board, McDonald's successfully defeated motions for conditional certification of two companion wage and hour collective actions. *Pullen v. McDonald's Corp. & Wilson v. McDonald's Corp.*, 2014 U.S. Dist. LEXIS 128364 (E.D. Mich. Sept. 15, 2014). In the cases, two groups of plaintiffs alleged minimum wage violations under the federal Fair Labor Standards Act (FLSA) on behalf of more than 1,000 workers. The plaintiffs claimed that they were compensated at less than the minimum wage as a result of having their uniform costs deducted from their pay and having unpaid "wait" time imposed when labor costs exceed a target set by McDonald's corporate office.

Under the FLSA, collective actions are "opt-in" cases. As a result, a two-stage certification process applies. At the initial pre-discovery stage, courts apply a lenient standard to decide whether to conditionally certify a collection action for purposes of notifying potential opt-in plaintiffs of the right to participate. After discovery, the defendant may move to de-certify the class.

In these McDonald's cases, the federal district court denied the plaintiffs' conditional certification motions despite recognizing the lenient standard that generally applies to such motions. The court noted that the proposed class would be a large one and that, at the post-discovery phase, it was almost certain the court would find that the plaintiffs were not similarly situated enough to proceed as a class. In issuing its ruling, the court listed numerous differences between the proposed class members, including varying pay rates, hours worked, pay deduction methodologies, different restaurant locations, different managers, and different wait times. The court also observed that, during oral argument, the defendants had agreed to reimburse employees for whom uniform deductions lowered their average hourly pay to an amount below minimum wage.

Related People

Maisha Frank

Partner

Washington, D.C.

202.295.2209

maisha.frank@lathropgpm.com