

**BLOGS**

Class Actions

Pennsylvania Federal Court Certifies Class of Franchisees, Allowing Contractor Misclassification and State Wage Claims to Proceed

A Pennsylvania federal court has granted class certification to a group of Jani-King® franchisees, allowing their lawsuit alleging contractor misclassification and wage claims under Pennsylvania’s Wage Payment and Collection Law (“WPCL”) to proceed. *Myers v. Jani-King of Phila.*, 2015 U.S. Dist. LEXIS 29566 (E.D. Pa. Mar. 10, 2015). The action considered whether Texas-based franchisor Jani-King, a franchisor of commercial cleaning businesses, exercised so much control that its franchisees were employees, rather than independent business owners, and whether the franchisees were subject to improper wage deductions under the WPCL.

In granting the franchisees’ certification motion, the court held that the plaintiffs met the numerosity, commonality, typicality, adequacy, and predominance class certification requirements under Federal Rule of Civil Procedure 23(a) and (b). While the franchisees were required to incorporate a business and had the right to elect to personally perform cleaning services or do so through employees they selected and managed, the court found that other uniformly applied Jani-King policies and practices evidenced control. For example, Jani-King obtained customer contracts for its franchisees, established and quoted contract prices to customers, guaranteed franchisees a certain level of gross sales, trained franchisees on required cleaning methods, required certain levels and types of customer interactions by franchisees, resolved customer complaints involving franchisees, and handled invoicing and accounting functions for franchisees. Importantly, in certifying the plaintiff class the court declined to adopt the reasoning used by a California federal court in a separate case against *Jani-King*, *Juarez v. Jani-King*, 273 F.R.D. 571 (N.D. Cal. 2011). In that action, the court refused to consider control evidence showing merely the “common hallmarks of a franchise.” The Pennsylvania court held that, unlike in some other states, Pennsylvania wage law does not distinguish between controls that are put in place to preserve a franchisor’s intellectual property and goodwill and controls for other reasons.

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