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Employment

Second Circuit Affirms Dismissal of Franchisees' Minimum Wage and Unjust Enrichment Claims

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A divided panel of the Second Circuit Court of Appeals has concluded that claims of improper wage deductions and unjust enrichment against a franchisor were properly dismissed because the plaintiffs agreed to deductions in exchange for valuable franchise rights. *Mujo v. Jani-King Int'l, Inc.*, — F.4th —, 2021 WL 4096577 (2d Cir. June 2, 2021). The plaintiffs were current and former franchisees of Jani-King, a commercial cleaning service franchisor. Jani-King sources cleaning customers, who enter into service agreements with the franchisees. The customers pay Jani-King, who deducts agreed-upon franchise fees and transmits the remainder on to the franchisees. In the lawsuit, the franchisees alleged that this structure made them employees rather than independent contractors and that the franchise fee deduction constituted an improper withholding of wages under the Connecticut Minimum Wage Act and unjustly enriched Jani-King. After a lower court dismissed the statutory claim and granted summary judgment on the unjust enrichment claim, the franchisees appealed.

The Second Circuit held that the franchisees failed to state a claim under the wage statute even assuming they were employees. The statute prohibits employers from diverting an employee's wages except as agreed to by the employee or as required by law. However, the majority reasoned that the so-called wage in question was not the entire revenue paid by the customer, but the amount that remained after Jani-King deducted its agreed-upon fees. The panel majority also concluded that Jani-King had not been unjustly enriched under Connecticut law, because it had conferred valuable rights in return for the franchise fees received and the fee provisions of the franchise agreement were agreed upon and enforceable. This was true even assuming that, as permitted under Connecticut law, the franchisees were considered to be both employees and franchisees. Accordingly, the majority affirmed the dismissal of all claims. In dissent, Judge Calabresi asserted that the relevant issues were not clear under Connecticut law, and that the case should be certified to the Connecticut Supreme Court for clarification.

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