2012 WL 2317233
Only the Westlaw citation is currently available.
United States District Court,
C.D. California.

Brandon CAMPBELL et al.
v.
VITRAN EXPRESS, INC.

No. CV 11–05029–RGK (SHx). | June 8, 2012.

Attorneys and Law Firms

Alexander R. Wheeler, Douglas Han, Jason P. Fowler, Kitty Kit Yee Szeto, R. Rex Parris, R. Rex Parris Law Firm, Lancaster, CA, for Brandon Campbell, et al.

Erica K. Rocush, Michael J. Nader, Robert A. Jones, Ogletree Deakins Nash Smoak & Stewart PC, San Francisco, CA, for Vitran Express, Inc.

Opinion

Proceedings: (IN CHAMBERS) Order Re: Defendant's Motion for Summary

R. GARY KLAUSNER, District Judge.

I. ***INTRODUCTION***

***1** On May 7, 2010, Brandon Campbell ("Campbell") and Ralph Maldonado ("Maldonado") (collectively, "Plaintiffs") filed the present class action Complaint in Superior Court for the County of Los Angeles against Vitran Express, Inc. ("Defendant"). On June 14, 2010, Defendant removed the case to this Court on the grounds that jurisdiction was proper under the Class Action Fairness Act ("CAFA"). This Court remanded the case on August 25, 2011, a decision that was reversed by the Ninth Circuit Court of Appeals on March 30, 2012.

Plaintiffs, acting under the Private Attorney General Act ("PAGA"), allege seven violations of state laws in their Complaint: 1) California Labor Code §§ 226.7 and 512(a), 2) California Labor Code § 226.7, 3) California Labor Code § 204, 4) California Labor Code §§ 201 and 202, 5) California Labor Code § 226(a), 6) California Labor Code § 1174(d), and 7) California Business and Professions Code § 17200.

On April 26, 2012, Defendant filed the present Motion for Judgment on the Pleadings or, in the alternative, Motion for Summary Judgment. For the reasons discussed below, the Court **GRANTS** Defendant's Motion.

II. ***FACTUAL BACKGROUND***

Campbell was employed by Defendant as a city driver from February 2009 to January 2010. Maldonado was employed by Defendant as a city driver from October 2008 to December 2009. Defendant owns and operates a delivery truck company.

The heart of Plaintiffs' allegations is that Defendant did not allow them to take the meal and rest breaks that they were entitled to under California law. Further, Defendant did not pay Plaintiffs for the missed meal breaks. Plaintiffs additionally allege that

Defendant failed to provide them with complete and accurate wage statements or pay them properly upon termination. Lastly, Plaintiffs allege that these practices constitute an unlawful business practice in violation of California Business and Professions Code § 17200.

III. *LEGAL STANDARD*

Defendant moves for Judgment on the Pleadings under Federal Rule of Civil Procedure ("Rule") 12(c) or, in the alternative, for Summary Judgment under Rule 56.

A. *Motion for Judgment on the Pleadings*

A motion for judgment on the pleadings is "functionally identical" to a motion to dismiss for failure to state a claim; the only significant difference is that a Rule 12(c) motion is properly brought "after the pleadings are closed-but early enough not to delay trial." Fed.R.Civ.P. 12(c); *Dworkin v. Hustler Magazine, Inc.,* 867 F.2d 1188, 1192 (9th Cir.1989). The Court may grant a Rule 12(c) motion for judgment on the pleadings only if, taking all the allegations in the pleading as true, the moving party is entitled to judgment as a matter of law. *Hal Roach Studios, Inc. v. Richard Feiner & Co.,* 896 F.2d 1542, 1550 (9th Cir.1990). When considering a motion for judgment on the pleadings, a court may also consider properly judicially noticed facts. *Heliotrop Gen., Inc. v. Ford Motor Co.,* 189 F.3d 971, 981 n. 18 (9th Cir.1999)

B. *Motion for Summary Judgment*

***2** Pursuant to Federal Rule of Civil Procedure 56(a), summary judgment is proper only where "there is no genuine issue as to any material fact and that the [moving party] is entitled to judgment as a matter of law." Fed.R.Civ.P. 56(a). Upon such showing, the court may grant summary judgment "on all or part of the claim." Fed.R.Civ.P. 56(a).

To prevail on a summary judgment motion, the moving party must show that there are no triable issues of material fact as to matters upon which it has the burden of proof at trial. *See Celotex Corp. v. Catrett,* 477 U.S. 317, 325, 106 S.Ct. 2548, 91 L.Ed.2d 265 (1986). On issues where the moving party does not have the burden of proof at trial, the moving party is required only to show that there is an absence of evidence to support the non-moving party's case. *See id.* at 326.

To defeat a summary judgment motion, the non-moving party may not merely rely on its pleadings or on conclusory statements. Fed.R.Civ.P. 56(e). Nor may the non-moving party merely attack or discredit the moving party's evidence. *Nat'l Union Fire Ins. Co. v. Argonaut Ins. Co.,* 701 F.2d 95, 97 (9th Cir.1983). The non-moving party must affirmatively present specific admissible evidence sufficient to create a genuine issue of material fact for trial. *See Celotex Corp., All* U.S. at 324.

IV. *DISCUSSION*

Defendant's sole argument is that the Federal Aviation Administration Authorization Act ("FAAAA"), 49 U.S.C. § 14501 *et seq* preempts Plaintiffs' claims under California law. Defendant argues that California's meal and rest break laws "relate to" the price, route, or service they are able to offer and are therefore preempted by the FAAAA. *See* 49 U.S.C. § 14501(c)(1).

Because the type of material properly before the Court differs between a Motion for Judgment on the Pleadings and a Motion for Summary Judgment, the Court will examine each of Defendant's alternative bases for relief separately.

A. *Motion for Judgment on the Pleadings*

The Court must first define the scope of the FAAAA's preemption clause and then determine whether the state law claims alleged here fall within the scope of that clause.

1. ***Scope of the FAAAA's Preemption Clause***

Federal preemption occurs when: (1) a Congressional statute explicitly preempts state law, (2) state law actually conflicts with federal law, or (3) federal law occupies a legislative field to such an extent that one can reasonably conclude that Congress left no room for state regulation in that field. *Chae v. SLM Corp.,* 593 F.3d 936, 941 (9th Cir.2010) (quoting *Tocher v. City of Santa Ana,* 219 F.3d 1040, 1045 (9th Cir.2000), *abrogated on other grounds by City of Columbus v. Ours Garage and Wrecker Serv., Inc.,* 536 U.S. 424, 122 S.Ct. 2226, 153 L.Ed.2d 430 (2002)). A presumption against preemption exists. *See Medtronic, Inc. v. Lohr,* 518 U.S. 470, 485, 116 S.Ct. 2240, 135 L.Ed.2d 700 (1996) (holding that federal laws do not supersede the historic police powers of the States unless Congress clearly intends to do so).

***3** The FAAAA explicitly preempts certain state laws; according to the statute, the States "may not enact or enforce a law, regulation, or other provision having the force and effect of law related to a price, route, or service of any motor carrier ... with respect to the transportation of property." 49 U.S.C. § 14501(c)(1). This clause has been interpreted to mean that state laws "having a connection with, or reference to [motor] carrier rates, routes, and services are preempted." *Rowe v. N.H. Motor Transp. Ass'n,* 552 U.S. 364, 370, 128 S.Ct. 989, 169 L.Ed.2d 933 (2008) (quoting *Morales v. Trans. World Airlines, Inc.,* 504 U.S. 374, 383–84, 112 S.Ct. 2031, 119 L.Ed.2d 157 (1992) (interpreting an identical provision of the Airline Deregulation Act of 1978, 49 U.S.C. § 1305(a)(1))) (internal quotation marks and emphasis omitted); *Am. Trucking Ass'n, Inc. v. City of Los Angeles,* 660 F.3d 384, 397 (9th Cir.2011). The Supreme Court has noted that the use of the words "related to" suggests that Congress intended to give a statute broad preemptive scope. *See Morales,* 504 U.S. at 383–84 (noting that similar language is used in the Employee Retirement Income Security Act of 1974 (ERISA)). Accordingly, a state law may have a connection with or reference to rates, services, or routes even if that connection is only indirect or is consistent with the federal regulation. *Rowe,* 552 U.S. at 370–371 (citing *Morales,* 504 U.S. at 386–87). However, the effect must be more than tenuous or remote. *Id.* at 371 (citing *Morales,* 504 U.S. at 390); *Am. Trucking,* 660 F.3d at 397.

Because the FAAAA's preemptive scope is so broad, the Ninth Circuit has noted that in borderline cases where the connection is more tenuous, the state law must bind motor carriers to a particular rate, route, or service "thereby interfer[ing] with competitive market forces within the industry." *Am. Trucking,* 660 F.3d at 397 (internal changes omitted).

The services of a motor carrier refers to "the frequency and scheduling of transportation, and to the selection of markets to or from which transportation is provided." *Am. Trucking,* 660 F.3d at 396 (quoting *Air Transp. Ass'n of Am. v. City & Cnty. of S.F.,* 266 F.3d 1064, 1071 (9th Cir.2001)). Rates of a motor carrier refers to the prices it charges for its services. *Id.* Routes refer to the courses of travel used by the motor carrier. *Id.*

2. ***Application to California's Meal and Rest Break Requirements***

At issue in the present case is whether California's meal and rest break requirements relate to the rates, routes, and services provided by Defendant and are therefore preempted by the FAAAA.

California Labor Code § 512(a) requires that employees who work more than five hours per day be provided with a thirty minute meal period, although that may be waived by mutual consent provided that the employee is not working more than six hours per day. An employee who works more than ten hours per day must be provided with a second thirty minute meal period, although the second period may be waived by mutual consent if the employee is not working more than twelve hours per day and has not waived the first break. Cal. Lab.Code § 512(a). California Labor Code § 226.7 states that employer may not require employees to work during their mandated meal breaks and must pay the employee an additional hour of pay at the regular rate for any day during which a meal period is not provided.

***4** The California Supreme Court recently clarified that this first break must come at some point within the first five hour period and the second break, if applicable, before the employee's tenth work hour. *Brinker Rest. Corp. v. Superior Court,* 53 Cal.4th 1004, 1041, 139 Cal.Rptr.3d 315, 273 P.3d 513 (2012). The law makes no other formal timing requirements besides these basic parameters. *Id.* Furthermore, although a company has an obligation to provide rest periods to its eligible employees, it need not "police" the meal breaks to ensure that employees are taking their required time off. *Id.* at 1040–41, 139 Cal.Rptr.3d 315, 273 P.3d 513.

The Court finds that as a matter of law, these meal and rest break requirements, even as clarified by *Brinker,* relate to the rates, services, and routes offered by Defendant. As other courts have noted, the length and timing of meal and rest breaks affects the scheduling of transportation. *See Esquivel v. Vistar Corp.,* 2012 WL 516094 *5 (C.D.Cal.2012); *Dilts v. Penske Logistics LLC,* 819 F.Supp.2d 1109, 1119 (C.D.Cal.2011). When employees must stop and take breaks, it takes longer to drive the same distance and companies may only use routes that are amenable to the logistical requirements of scheduled breaks. Further, Plaintiffs have argued that the inability to take meal or rest breaks comes from their need to otherwise comply with Defendant's tight scheduling requirements. (RJN Ex. C (Pls' Opp. to Def's Mtn. to Stay), 2:25–3:2.) The conclusion that the FAAAA preempts California's meal and rest break requirements is consistent with the broad preemptive scope of the statute.

Because all of Plaintiffs' claims concern the failure of Defendant to abide by California's meal and rest break requirements, the Court **grants** Defendant's Motion for Judgment on the Pleadings.

B. ***Motion for Summary Judgment***

Because the Court concludes that the FAAAA, as a matter of law, preempts California's meal and rest break requirements, the Court need not discuss Defendant's alternative basis for relief.

V. ***REQUEST FOR JUDICIAL NOTICE***

To the extent that the Court has relied on documents that are subject to a request for judicial notice, that request is hereby granted.

VI. ***CONCLUSION***

For the reasons stated above, the Court **GRANTS** Defendant's Motion for Judgment on the Pleadings.

IT IS SO ORDERED.

Parallel Citations

19 Wage & Hour Cas.2d (BNA) 1765

End of Document