

Ninth Circuit Affirms Dismissal of Wage-Hour Class Action Where Employees Could Edit Their Own Time Entries

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In a case that could be of significant benefit to employers in California and elsewhere around the country, the Ninth Circuit Court of Appeals recently affirmed a ruling that plaintiffs failed to satisfy the “commonality” requirement essential to a collective action on their wage-hour claim where they had the authority to edit the time entries that served as the basis for their claim. *Coleman v. Jenny Craig, Inc.*, 2016 U.S. App. LEXIS 7164 (April 6, 2016).

Plaintiff Hashonna Coleman brought suit against Jenny Craig, Inc. on behalf of herself and other current and former employees for alleged violations of the Fair Labor Standards Act (“FLSA”) and various California Labor Code sections providing for overtime payments and premiums for failure to provide or pay for meal and rest periods. With respect to the proposed Meal and Rest Break Class, Coleman alleged that Jenny Craig had a common practice of forcing hourly employees to miss meal breaks or take short or late meal breaks, and that the payroll system only paid the (California) required premium when employees’ timecards showed an entirely-missed meal break.

The evidence showed that Jenny Craig’s uniform compensation system was not programmed to automatically pay employees the premiums for short or late lunches, because employees were able to submit time edit requests for premiums whenever their meal breaks were short or late. The district court concluded that this feature of the Company’s payroll system did not amount to a policy or practice of non-payment of premiums for short or late lunches, because employees themselves could edit and correct any time entries they believed did not accurately reflect their hours worked. The district court concluded that the plaintiffs did not satisfy the “commonality” requirement for class certification and therefore it denied Plaintiff’s motion to certify a class.

The Ninth Circuit affirmed the lower court’s ruling and held that, for Coleman to show commonality on her claims, she must show a common practice of Jenny Craig to force employees to take short or late meal breaks, but that a common practice of simply not paying wage premiums, standing alone, is insufficient to show commonality under the FLSA and California statutes. Since the lower court found that Jenny Craig did not have a common practice of forcing employees to take short or late meal breaks, the Ninth Circuit held that the court was correct in finding that Coleman had not proven the existence of a common practice necessary to maintain a class claim.

The pivotal fact upon which the class certification question turned for the Ninth Circuit was that

employees had the opportunity to edit their own time entries to ensure that they were paid for time worked if they had short or late meal breaks. Any employer with a time keeping system which provides employees the opportunity to review, edit and certify their time entries will arguably be in a position to assert that fact as a defense to any collective action wage claims they may face.

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National Law Review, Volume VI, Number 147

Source URL: <https://natlawreview.com/article/ninth-circuit-affirms-dismissal-wage-hour-class-action-where-employees-could-edit>