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Williams-Sonoma Dodges NJ Delivery Workers' Overtime Suit

By **Suevon Lee**

Law360, Los Angeles (March 17, 2016, 10:16 PM ET) -- A New Jersey federal judge on Wednesday denied a bid by a putative class of workers making deliveries from a Williams-Sonoma Inc. furniture warehouse to recover overtime wage claims against the upscale retailer, saying that the individuals are not the retailer's employees.

The same, however, could not be said of MXD Group Inc., the company overseeing logistics of those deliveries to customers, U.S. District Judge Anne E. Thompson held in her 22-page ruling denying summary judgment to the workers and MXD, and granting summary judgment to Williams-Sonoma.

Wednesday's mixed ruling, which also denied the workers class certification on the grounds that they failed to allege sufficient commonality of claims against MXD, means that although San Francisco-based Williams-Sonoma is off the hook for the workers' claims for overtime pay under New Jersey's state wage-and-hour law, MXD may not be if a jury determines it is the workers' employer.

"[Williams-Sonoma] is separated from the driver/helper plaintiffs by two levels: MXD and the transportation companies," the judge wrote. "It is separated by [plaintiff] Jose Cruz only by a single level, but the record reflects that [Williams-Sonoma] never had more than occasional interactions with any plaintiffs."

The workers' job was to arrive early in the morning at a Williams-Sonoma facility in Monroe, New Jersey, load furniture onto their assigned trucks and make deliveries to customers. The drivers were paid a daily flat rate, receiving customer tips but no overtime, by the transportation companies that were hired by MXD to facilitate those deliveries, according to the ruling.

In a September 2012 putative class action filed in New Jersey state court that was later removed to federal court, the group of 166 drivers said that they were misclassified as independent contractors when they should have been classified as employees of both Williams-Sonoma and MXD and thus paid overtime under New Jersey law, since the companies directed the manner and means in which they conducted their tasks.

For instance, the workers said, they were told how to resolve issues with customers, required to wear a uniform with the Williams-Sonoma logo and told to check in with an MXD dispatch office throughout the day.

Wednesday's ruling on summary judgment turned on the application of several tests to determine whether an employer-employee relationship had been established between the drivers and Williams-Sonoma and MXD under the Fair Labor Standards Act and New Jersey court precedent.

The judge held that under the FLSA's "economic realities test," the retailer wasn't the drivers' employer since it didn't hire or fire them, determine salaries, keep records or otherwise control or supervise them.

Nor could the company be considered their employer under a "joint employer" theory since it didn't exercise significant control over those individuals, Judge Thompson said.

The judge said that on the other hand, MXD did exercise some authority over the drivers by requiring they fill out paperwork at its Ohio corporate office, performed background checks and turned away drivers with spotty driving records and set certain conditions of employment, such as generating the delivery routes and requiring drivers to check in from the road on a regular basis.

Lastly, Judge Thompson denied certification of the class, holding that the putative class of individuals seeking to bring claims against MXD was too varied since a separate test establishing the employer-employee relationship would not provide the same answers for each person and required individualized evidence.

"The amount of control MXD exercised over the different driver/helper plaintiffs varied significantly," the judge said in her ruling.

Representatives for the parties could not immediately be reached for comment on Thursday.

The plaintiff workers are represented by Ravi Sattiraju of The Sattiraju Law Firm PC.

William Sonoma Inc. is represented by Jonathan H. Stoler of Sheppard Mullin Richter & Hampton LLP.

MXD Inc. is represented by Peter Francis Berk of Genova Burns LLC.

J&J Trucking Inc. is represented by Anthony Santos Almeida of Mashel Law LLC.

The case is Camillo Echavarria et al. v. Williams Sonoma Inc. et al., case number 3:15-cv-06441, in the U.S. District Court for the District of New Jersey.

--Editing by Stephen Berg.

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