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Gilliland v. Board of Educ. of Charles County

United States Court of Appeals, Fourth Circuit - April 26, 2013 - Slip Copy - 2013 WL 1777507

Bus drivers and bus attendants, who were jointly employed by the Board and certain bus contractors, brought suit against school board seeking to recover unpaid wages, including overtime wages, primarily on the basis of the FLSA. Drivers alleged that they were not paid for all of the hours that they worked. They also allege that they were required to work more than 40 hours per week during their joint employment and that they have not been paid overtime for the hours they worked in excess of 40 per week.

The district court ruled that Maryland waived the board's Eleventh Amendment immunity against a claim brought under the FLSA for up to \$100,000 in damages.

The board appealed, arguing that the district court erred in ruling that they are not entitled to Eleventh Amendment immunity against FLSA claims for damages of \$100,000 or less. The appeals court agreed and reversed.

The appeals court found that the decisions of the Maryland appellate courts made clear that § 5-518's applicability turns on the type of claim asserted. The statute applies only to tort claims, such as personal injury actions, and tort-related claims, such as discrimination actions. The FLSA claim in this case does not fit that description. Unlike discrimination claims, which the Maryland courts have concluded are in the nature of personal-injury claims, FLSA claims "are contractual in their nature." That is so because the FLSA's overtime provisions "are read into and become a part of every employment contract that is subject to" the FLSA's terms, and thus the liability of the employer in an action under the FLSA for unpaid overtime is for the wages due under working agreements which the federal statute compels employer and employee to make." In light of the contractual nature of the FLSA claim, the court concluded that Maryland courts would not consider it to be an "employment law" claim in this context.