Federal Appeals Court Limits Railway Labor Act Preemption of Wage Hour Claims Against Carriers

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Airlines, railroads and companies performing traditional functions under the control of the airlines or railroads (collectively "carriers") are covered by the Railway Labor Act ("RLA") rather than the National Labor Relations Act. In general, carriers subject to the RLA are exempt from the overtime provisions of the Fair Labor Standards Act, but are subject to various state wage/hour laws. Where carriers have collective bargaining agreements, they have often defended state law wage and hour claims on the basis that such claims require interpretation of their collective bargaining agreements and are, therefore, pre-empted by the RLA. Often when these claims are asserted in state courts, carriers seek to remove the actions to federal court where they anticipate more consistent and favorable treatment of this defense.

In Moore-Thomas, et al. v. Alaska Airlines, Inc., No. 06-35923 (9th Cir. Jan. 27, 2009), the Ninth Circuit struck a blow against allowing carriers to remove such claims to federal court based on pre-emption. The suit began in 2006 as a proposed class action in Oregon state court alleging that Alaska Airlines failed to pay the plaintiff and others similarly-situated all wages allegedly due upon termination of employment as required under the applicable collective bargaining agreement. After Alaska Airlines removed the action to federal court, the plaintiff moved to remand. The District Court agreed that the case was properly in federal court and dismissed the action as pre-empted by the RLA, because the claims depended on the interpretation of the collective bargaining agreement.

On appeal, the Ninth Circuit reversed, remanding the case to state court. The decision turned on the Court's application of principles distinguishing "complete" from "ordinary" pre-emption. Where a claim is subject to "complete" pre-emption, it may be removed to federal court because the federal statute provides the exclusive cause of action. By contrast, claims subject to "ordinary" pre-emption may not be removed where only state law claims are asserted and there is no exclusive federal remedy. Notably, however, the Court did not reach the question of whether "ordinary" RLA pre-emption provided a defense to Alaska Airlines as the case proceeds in state court. In reaching this decision, the Court effectively overruled prior authority in the Ninth Circuit and adopted a rule previously applied in the Second Circuit in Sullivan v. American Airlines, 424 F.3d 267 (2d Cir. 2005).

Although carriers may have shrinking opportunities to litigate these claims in federal court, state courts have not been reluctant to dismiss state law wage and hour claims on the basis of "ordinary" RLA pre-emption. See e.g., Fitzgerald v. Skywest, Inc., 155 Cal. App. 4th 411, 65 Cal. Rptr. 913 (2d Dist. 2007). There, a state law wage/hour claim was dismissed based on RLA pre-emption because resolution of the claim required interpretation of a collective bargaining agreement.

These pre-emption defenses are available only in claims asserted by employees covered by collective bargaining agreements. State law wage/hour claims by unrepresented employees of carriers are unaffected by these pre-emption principles.

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