



Recently, the U.S. District Court for the District of Arizona held in *Castillo v. Spencer's Air Conditioning & Appliance, Inc.*, 2024 WL 706939, that while the question of whether an entity is a joint employer under the Fair Labor Standards Act (FLSA) is a question of law, summary judgment was not appropriate because there were material disputed facts at issue in the analysis of the economic reality of an alleged joint employment relationship.

In analyzing an alleged joint employment relationship under the FLSA, the U.S. Court of Appeals for the Ninth Circuit looks at approximately eight different factors, including the power to hire and fire, the supervision on control of work schedules or conditions of employment, the rate and method of payment, and maintenance of employment records, which include things like whether the premises and equipment of the company are used for

the work and whether there is permanence in the working relationship. These factors aid in determining whether workers, "as a matter of economic reality are dependent upon the business to which they render service." While the question of joint employment is a question of law, the determination involves weighing multiple factors which should be established through evidence that may be disputed.

In *Castillo*, the district court considered whether economic realities factors pointed to a joint employment relationship between Spencer's and installation workers engaged by a third-party company who contracted with the plaintiffs as independent contractors. Spencer's contracted with this third party for delivery and installation of appliances. The district court denied Spencer's motion for summary judgment.

The district court considered the evidence in the light most favorable to the plaintiffs, as the nonmoving party. The district court evaluated the factors and found that many were either neutral or did not cut decisively for or against finding a joint employment relationship. The only factor that the court found to weigh conclusively against joint employer status was the fact that the majority of installation workers' time was spent not on Spencer's property and that workers used trucks and heavy equipment provided by the third party. The court also found that many factors pointed toward the existence of a potential joint employment relationship. The fact-intensive nature of the economic realities test made summary judgment inappropriate in this case because there were material, factual disputes related to economic realities factors.

Employers facing claims under the FLSA as an alleged joint employer or who have questions about joint employer relationships should consult experienced counsel for guidance.

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