

Lassalle v. State of Nebraska (15)

Case Number

S-19-0810

Case Audio

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Call Date

April 28, 2020

Case Time

9:00 AM

Court Number

Lancaster

Case Location

Lincoln

Court Type

District Court

Case Summary

S-19-0810 Brian Lassalle (Appellant) v. State of Nebraska, et al.

Lancaster County District Court, Judge John A. Colborn

Attorneys: Kathleen M. Neery, Vincent M. Powers (Powers Law) & R. Joseph Barton, Vincent Cheng, *pro hac vice* (Block & Leviton, for Appellant); Stephanie Caldwell (Office of the Attorney General, for Appellee)

Civil: Nebraska Wage Payment and Collection Act (NWPCA)

Proceedings Below: The court entered an order on December 4, 2018, denying Appellant's motion for class certification and in so doing, reasoned that the case would require varying proof as to the right of each employee to recover from Appellees along with a potential conflict of interest. On July 23, 2019 the court entered an order denying the Appellant's renewed motion for class certification and granting Appellees' summary judgment motion and dismissing all claims against Appellees. In so doing, the court found with respect to the NWPCA claims that "there is no genuine issue of material fact that the [Appellees] did not previously agree to pay the [Appellant] for leave hours in excess of the [Appellant's] 80 hour pay period" and ruled the renewed class certification was untimely and moot due to the grant of Appellees' summary judgment motion.

Issues on Appeal: Whether the trial court erred in 1) granting the Appellees' motion for summary judgment; 2) failing to find that one or more genuine issues of material facts were in dispute when it granted Appellees' summary judgment motion; 3) finding that Appellees were entitled to judgment as a matter of law; 4) failing to give the non-moving party the benefit of all reasonable inferences; 5) failing to view the evidence in the light most favorable to the non-moving party; 6) deciding the ultimate factual dispute as to whether the parties had previously agreed that the wages should be paid as that factual dispute should have been reserved for the jury; 7) determining that the employer must agree to pay an employee wages or benefits to establish a violation of the NWPCA; 8) overruling Appellant's original and renewed motions for class certification; 9) finding that the additional evidence offered in support of the renewed

motion for class certification was not new and the renewed motion was not timely; 10) failing to consider on the renewed motion new evidence and proposed relief and potential disagreement among class members about the non-economic benefits of class certification and showed economic injury to all class members as a result of the policy; 11) refusing to consider the renewed motion; and 12) overruling Appellant's original motion for class certification on the ground of speculative intra-class conflicts.

Schedule Code

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