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Seventh Circuit Rejects FAAAA Preemption Of Illinois Wage Act in Costello v. BeaVex

On January 19, 2016, the Seventh Circuit Court of Appeals issued a ruling rejecting a courier’s claim that the Federal Aviation Administration Authorization Act (“FAAAA”) preempted claims brought under the Illinois Wage Payment and Collection Act (“IWPCA”). Independent contractors under contract to the courier brought claims under the IWPCA claiming that they were “employees” for purposes of the act and the courier violated the IWPCA by deducting chargebacks from their “paychecks” because the courier did not obtain their written consent for those deductions “at the time of the deduction.”

The courier asserted that the FAAAA preempted the independent contractors’ claims because the courier would have to (1) classify its drivers as employees; (2) which would subject the courier to various state and federal employment laws; (3) which would increase its costs and ultimately affect the price of its services. The appellate court found that the IWPCA had limited impact on the courier and would not force the courier to reclassify its drivers as employees for all purposes. While the court found that the courier would have to increase its prices or lower the independent contractor’s compensation in exchange for not making deductions, it found that “the IWPCA’s effect on the cost of labor is too tenuous, remote or peripheral to have a significant impact on [the courier’s] setting of prices for its consumers.”

Despite finding that the FAAAA did not preempt the IWPCA, the Seventh Circuit’s opinion left open the question of whether the FAAAA preempts claims that *would* result in independent contractors being reclassified as employees for *all purposes* because doing so “could undermine [the courier’s] ability to continue offering on-demand delivery services.” In a positive element of the opinion, the court embraced the reasoning that lead a trial court in Massachusetts to find that the FAAAA preempted Massachusetts’ independent contractor law, which forces the reclassification of independent contractors for all purposes. For more

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