

GlobalTranz Workers Lose Class Cert. Bid In OT Suit

By **Adam Lidgett**

Law360, New York (September 25, 2017, 8:15 PM EDT) -- An Arizona federal judge on Friday declined to conditionally certify a suit alleging GlobalTranz Enterprises Inc. didn't pay certain workers overtime as a collective action, finding the workers who brought the suit didn't meet their burden to show they were similarly situated to members of the proposed class.

U.S. Magistrate Judge Michelle H. Burns denied a motion for conditional class certification from a group of current and former GlobalTranz workers who brought the complaint on behalf of similarly situated logistics specialists and carrier representatives that the freight management company allegedly misclassified as exempt from overtime under the Fair Labor Standards Act.

In finding that the named plaintiffs didn't carry the burden to show they were similarly situated to other workers with the same job titles, Judge Burns wrote that the declarations from the named plaintiffs were, while nearly identical, vague and conclusory.

"The named plaintiffs speak in terms of defendants' 'expectations' and 'awareness'" in regard to the employees' work hours, the judge wrote, "but do not state how they learned defendants' expectations and awareness. Without more, the court is constrained to make findings as to other employees' experience."

Additionally, the judge said the plaintiffs hadn't shown a similarity of work schedules, even though other carrier representatives and logistics specialists might have performed similar work.

"To hold otherwise would mean that plaintiffs could meet their burden by merely describing their own experience, and their belief that their co-workers experienced the same," the judge said.

The suit was filed in late April, after another suit was filed in March 2015 by the company's sales representatives and freight brokers, according to court documents. The attorneys in the instant case represented plaintiffs in that case as well, and the allegations in the complaints are similar, the judge noted.

The parties in the other case stipulated that the court certify it as a collective action "with respect to all current and former logistics specialists and carrier representatives who worked for [GlobalTranz] at any time from three years prior to the date of [the] order to the present," the judge said. The earlier case was settled this past March, but the judge said the plaintiffs in the instant case "apparently" chose not

to opt in to that other lawsuit.

“This is a big win in the case for GlobalTranz, who has been fighting this issue in one way or another for years now,” Jeffrey S. Ranen, an attorney for the company, told Law360 on Monday. “Judge Burns’ ruling highlights what defense attorneys have been arguing for years now, which is that courts should not rubber-stamp motions for class certification, and her thoughtful ruling denying class certification should be commended and used as an exemplar in future cases.”

Counsel for the plaintiffs declined to comment.

The plaintiffs are represented by Clifford P. Bendau II and Christopher J. Bendau of the Bendau Law Firm PLLC, and Jahan C. Sagafi of Outten & Golden LLP.

GlobalTranz is represented by Erica K. Rocush, Jeffrey S. Ranen, Jack E. Jimenez and Derek S. Sachs of Lewis Brisbois Bisgaard & Smith LLP.

The case is Delnoce et al. v. GlobalTranz Enterprises Inc. et al., case number 2:17-cv-01278, in the U.S. District Court for the District of Arizona.

--Editing by Aaron Pelc.