

Quicken Loans loses battle to dismiss employee's clock-fixing claim

TRESA BALDAS DETROIT FREE PRESS STAFF WRITER

DETROIT FREE PRESS

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It looks like more legal headaches involving overtime for Quicken Loans.

A federal judge today denied Quicken Loans' request to dismiss an overtime lawsuit filed by a former secretary who claims the company engaged in clock fixing.

Today's order comes one month after Quicken Loans won a jury verdict in another class action overtime lawsuit, in which nearly 400 former Quicken employees were seeking back overtime pay. On March 17, the jury found that the employees were not strictly salespeople, but rather mortgage bankers with broader duties, and therefore not entitled to overtime.

In this latest case, U.S. District Judge Stephen Murphy ruled that Tiyanna Knight could proceed with her case, in which she claims that Quicken denied her overtime pay by requiring her and other hourly employees to adjust their time clocks downwards at the end of the week to make it look like they worked only 40 hours a week. This, her lawsuit alleges, is a violation of the federal Fair Labor Standards Act.

Jesse Young, who is representing Knight, hailed today's ruling as a significant victory for his client.

"You have Quicken Loans, which is a huge company, and you have Miss Knight, who is just an hourly employee who just wants to get paid a fair wage for a full days work," he said.

Knight, who started working for Quicken in 2007, was terminated on Sept. 13, 2010, records show. She filed her overtime lawsuit one month later. While she worked for Quicken, she filed for bankruptcy, records show.

Quicken moved to dismiss the case, alleging that since Knight failed to disclose a potential overtime claim against Quicken when she filed for bankruptcy, she had no legal grounds to bring her overtime lawsuit. Quicken held that Knight may have been trying to hide potential assets from the bankruptcy court by not disclosing her potential overtime claims.

Jones called that claim "ridiculous."

"The motion was just a smoke screen to try to get the case dismissed."

Young said that his client's failure to notify the bankruptcy court about her potential overtime lawsuit was "an honest mistake"

"She doesn't understand the law," he said. "I think the judge saw through (Quicken's) arguments."

Murphy held that Knight "likely did not understand" that clock fixing was illegal, and that she didn't learn that her employer might be engaged in illegal behavior until she talked to an attorney about it.

"It was Knight's termination and subsequent meeting with an attorney that appear to have triggered this lawsuit, not an unlawful scheme to shelter assets from the bankruptcy estate," Murphy wrote. "Had she continued working at Quicken, the lawsuit may never have

been filed. Finally, as soon as she was made aware of the discrepancy in her bankruptcy filings, Knight reopened her file and disclosed the potential claim."

In a statement today, Quicken Loans disagreed with the Court's decision to allow the case to proceed.

"We believe the law is clear: One cannot deny a claim in bankruptcy and then turn around and sue to recover on claims that one has denied exist," the statement read.

Quicken Loans also said that the court did not rule on the merits of Knight's claim, only that it was too early to dismiss this case without the benefit of more facts.

The company also defended its pay practices.

"Quicken Loans pays and always has paid its team members fairly and in accordance with all laws," the statement read. "Regrettably, Ms. Knight never brought to the attention of her managers nor the company any claim that she was not being paid properly while she was employed; it was only after she was terminated that she made such assertions."

Quicken Loans also denied Knight's claims, and criticized the plaintiffs lawyers for bringing the case, holding:

"Unfortunately, we fear that this case is another example of the reckless permissiveness of our current day legal system ... All of this is consistent with the calculated blueprint of extracting an unjust settlement from their victim who they hope will concede and "cry uncle". Once again, as we have demonstrated in past attacks of this nature against our organization, we

simply will not pay off these firms to simply make these kinds of cases 'go away'."

Meanwhile, Young noted that Knight's overtime lawsuit, which is seeking class certification, is different from the last case, in which Quickens won at jury trial. In that case, the plaintiffs argued that they were misclassified as managerial employees so that they wouldn't get paid overtime.

In the Knight case, Young said, there's no classification dispute: the potential class members are secretarial and clerical support service employees, who are all hourly workers. Knight's claim, he said, is that the company engaged in clock fixing to avoid paying those hourly employees overtime.

"They would have their employees basically go back and fix their time records," he said, adding that employees worked, but didn't get paid for it. "That's a violation of the FLSA."

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