

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

July 16, 2013

No. 12-20797
Summary Calendar

Lyle W. Cayce
Clerk

MAX LUCAS,

Plaintiff-Appellant

v.

NOYPI, INCORPORATED; PIONEER CONTRACT SERVICES,
INCORPORATED; SUSAN SUSUSCO; ED FRITCHER,

Defendants-Appellees

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 4:11-CV-1940

Before WIENER, ELROD, and GRAVES, Circuit Judges.

PER CURIAM:*

Plaintiff-Appellant Max Lucas appeals the district court's grant of summary judgment in favor of Defendants-Appellants, rejecting all claims for overtime wages. The district court determined that there were no genuine issues of material fact to dispute the conclusion that, at all relevant times, the

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

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employment of Lucas and others similarly situated included work as “loaders” of vehicles of sufficient size, engaged in interstate commerce, to come within the exemption of the Motor Carriers Act to the overtime provisions of the Fair Labor Standards Act, after the court first determined that Defendants-Appellants had sufficiently raised their exemption defense to avoid Lucas’s claim that they had waived it.

Our review of the record on appeal, including the briefs of the parties and the exhaustive opinion of the district court, satisfies us that the court correctly rejected waiver, accurately analyzed the summary judgment record in light of the applicable law, and thus properly dismissed Lucas’s action for the reasons expressed in the court’s Memorandum Opinion and Order of October 3, 2012. Consequently, we AFFIRM the judgment of the district court in all respects.