United States Court of Appeals for the Fifth Circuit

United States Court of Appeals
Fifth Circuit
FILED
August 19, 2026
Lyle W. Cayce
Clerk

No. 25-30603

Amy Hamm, *on behalf of herself and all others similarly situated*; Joye Wilson,

Plaintiffs—Appellees,

versus

Ochsner-Acadia, L.L.C.; Acadia LaPlace Holdings, L.L.C.,

Defendants—Appellants.

Appeal from the United States District Court
for the Eastern District of Louisiana
USDC No. 2:20-CV-1515

Before Stewart, Graves, and Wilson, *Circuit Judges*.

James E. Graves, Jr., *Circuit Judge*:

Plaintiffs are (or were) support staff at a psychiatric hospital run by Acadia-affiliated entities. They allege that, although Acadia gave them nominal meal breaks, its policies made them effectively on call without pay during these periods. They sue under the Fair Labor Standards Act (FLSA) and under Louisiana state law for unjust enrichment and conversion. The district court certified an FLSA collective action and a Rule 23(b)(3) class action for the state-law torts. Our court granted Acadia leave to appeal class certification under Rule 23(f).

To the extent Acadia challenges collective certification, we dismiss the appeal for lack of jurisdiction. And finding no abuse of discretion in class certification, we affirm.

I. Background

Acadia operates River Place Behavioral Health, a psychiatric hospital in LaPlace, Louisiana. The named plaintiffs, Joye Wilson and Amy Hamm, are former River Place employees. Wilson worked as a mental health technician, responsible for supervising patients and caring for their basic needs. Hamm worked as a nurse supervisor.

Plaintiffs sued Acadia in 2020, and later amended their complaint to add the Acadia-affiliated entities that operate River Place: Ochsner-Acadia and Acadia LaPlace Holdings.[1] They allege that, although Acadia gave them nominal meal breaks, its policies and their professional ethical duties functionally required them to be on call for those breaks. They maintain that this violated the FLSA and Louisiana statutes prohibiting unjust enrichment and conversion. Plaintiffs sued on their own behalf, and those similarly situated, seeking to certify an FLSA collective action, and for the state-law torts, a Rule 23 class action. In four orders, the district court certified both an FLSA collective action and a class action. Acadia appeals under Rule 23(f).

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[1] We refer to Ochsner-Acadia and Acadia LaPlace Holdings collectively as "Acadia."

II. Discussion

A. We lack appellate jurisdiction over the collective-certification orders.

Federal Rule of Civil Procedure 23(f) affords an appellate court discretion to consider an interlocutory appeal from a district court "order granting or denying class-action certification under" Rule 23. *Regents of Univ. of Cal. v. Credit Suisse First Bost. (USA), Inc.*, 482 F.3d 372, 380 (5th Cir. 2007). The rule's text "makes plain that the sole order that may be appealed is the class certification; no other issues may be raised." *Id.* (citation modified). Yet Acadia urges us to invoke pendent jurisdiction to review the orders certifying the FLSA collective alongside the class certification orders. We decline.

Pendent appellate jurisdiction allows us to review nonfinal orders "not properly subject to collateral order jurisdiction." *Mi Familia Vota v. Ogg*, 105 F.4th 313, 333 (5th Cir. 2024) (citation omitted). But only in two "rare and unique circumstances." *Escobar v. Montee*, 895 F.3d 387, 392 (5th Cir. 2018). We may review a pendent decision that is "inextricably intertwined with the decision over which" we have jurisdiction. *Mi Familia Vota*, 105 F.4th at 333 (citation omitted). And we may exercise jurisdiction over a pendent decision when reviewing it "is necessary to ensure meaningful review of the" decision within our jurisdiction. *Id.* (citation modified).

Acadia claims that the class and collective certification decisions are inextricably intertwined because liability to both the collective and the class depends solely on whether the members' breaks were predominantly for the employer's benefit. From this premise, it challenges both collective and class certification, reasoning that the predominant-benefit test is susceptible to individualized defenses that are unsuitable for mass adjudication.[2] Viewed this way, the class and collective certification orders might be inextricably intertwined.

But Acadia proceeds from a faulty premise. While all agree that the predominant-benefit test governs plaintiffs' FLSA claims, Acadia offers no compelling authority that this test applies to the state-law torts. Sometimes, district courts and state courts have treated state law and FLSA claims for interrupted meal breaks as depending on whether the break was "for the benefit" of the employer. *See, e.g.*, *Bergeron v. Ochsner Health Sys.*, No. CV 17-519, 2017 WL 3648451, at *10 (E.D. La. Aug. 24, 2017). But Acadia offers no Louisiana state court decision, or authority from our court, that has ever applied the FLSA's predominant-benefit test to a Louisiana-law unjust enrichment or conversion claim. Nor can we find any.

For good reason. Plaintiffs' state-law torts prescribe a different inquiry than their FLSA claims for unpaid overtime. Their unjust enrichment claims depend on whether Acadia "has been enriched without cause" at their expense. *Gilstrap v. Cross Realty, Inc.*, 25-45, p. 2 (La. App. 5 Cir. 12/23/25), 428 So. 3d 997, 1001. And their conversion claims depend on whether Acadia wrongfully acquired their wages. *Dual Drilling Co. v. Mills Equip. Invests., Inc.*, 98-0343, p. 6 (La. 12/1/98), 721 So. 2d 853, 857. Although plaintiffs' factual theories under these torts and the FLSA are

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[2] Whether an employee was given "a bona fide meal period" under the FLSA depends on "the predominant-benefit test." *Dean v. Akal Sec., Inc.*, 3 F.4th 137, 143–44 (5th Cir. 2021) (citations modified). This test analyzes "whether the meal period is used predominantly . . . for the benefit of the employer or for the benefit of the employee." *Bernard v. IBP, Inc. of Neb.*, 154 F.3d 259, 264–65 (5th Cir. 1998) (citation omitted). Among other factors, we consider "how frequently the [break] is actually interrupted by work-related duties." *Naylor v. Securiguard, Inc.*, 801 F.3d 501, 506 (5th Cir. 2015) (citation omitted).

similar—that they were effectively on call during meal breaks—the legal inquiries are different. So the state-law torts present different predominant questions, defenses, and manageability concerns.

And we employ different standards for collective and class certification. Collective certification depends on whether employees are "similarly situated" and whether the test for liability can be applied collectively. *Swales v. KLLM Transp. Servs., LLC*, 985 F.3d 430, 434–35, 442–43 (5th Cir. 2021) (quoting 29 U.S.C. § 216(b)). Yet class certification depends on whether a putative class satisfies Rule 23's specific prerequisites. *Cleven v. Mid-Am. Apartment Cmtys.*, 20 F.4th 171, 175–76 (5th Cir. 2021). With different procedural standards, the analysis and outcomes of class and collective certification might diverge.

Because the predominant-benefit test does not apply to plaintiffs' state-law torts, all that overlaps between the collective and the class certification inquiries is that the same plaintiffs advance similar factual theories. Where the substantive and procedural standards diverge so sharply between the pendent order and the order within our jurisdiction, we cannot say that the orders are inextricably intertwined. We thus decline pendent appellate jurisdiction over the collective certification orders and dismiss Acadia's appeal of those orders.

B. We affirm class certification.

What remains is Acadia's appeal of class certification. The district court issued two detailed and comprehensive orders certifying a class of current and former mental health support staff (e.g., nurses, therapists, intake coordinators) at River Place. Because the district court applied the right legal standard and did not abuse its discretion in finding the Rule 23 requirements satisfied, we affirm.

1. We review class certification for abuse of discretion.

To certify a class, a district court must first determine that the putative class satisfies Rule 23(a)'s "four threshold requirements." *Cruson v. Jackson Nat'l Life Ins. Co.*, 954 F.3d 240, 252 (5th Cir. 2020) (citation omitted). Those are: "(1) numerosity, (2) commonality, (3) typicality, and (4) adequacy." *Id.* at 252 n.11 (quoting Fed. R. Civ. P. 23(a)). If a class meets this threshold, it must also satisfy either Rule 23(b)(1), (2), or (3). *Id.* Here, the district court certified a class under Rule 23(b)(3), which has two more requirements: predominance and superiority. *Elson v. Black*, 56 F.4th 1002, 1006 (5th Cir. 2023) (citation omitted).

A district court must "rigorous[ly] analy[ze]" these prerequisites. *Cleven*, 20 F.4th at 176. But so long as it remains faithful to Rule 23's framework, certification lies within the court's "broad discretion." *Id.* Unless it abuses this discretion, we affirm. *Ibe v. Jones*, 836 F.3d 516, 528 (5th Cir. 2016). Still,"[w]hether the district court applied the correct legal standard [for class certification] . . . is a legal question that we review de novo." *Credit Suisse First Bost.*, 482 F.3d at 380 (citation omitted).

2. Common questions predominate.

Acadia chiefly argues that the district court improperly analyzed predominance. To certify a Rule 23(b)(3) class, a "district court must find that 'questions of law or fact common to class members predominate over any questions affecting only individual members.'" *Tyson Foods, Inc. v. Bouaphakeo*, 577 U.S. 442, 453 (2016) (quoting Fed. R. Civ. P. 23(b)(3)). This tests "whether proposed classes are sufficiently cohesive to warrant" class adjudication. *Gene & Gene LLC v. BioPay LLC*, 541 F.3d 318, 326 (5th Cir. 2008) (citation omitted).

A court must carefully scrutinize "the relation between common and individual questions in a case." *Tyson Foods*, 577 U.S. at 453. "An individual question is one where members of a proposed class will need to present evidence that varies from member to member." *Id.* (citation modified). Whereas "a common question is one where the same evidence will suffice for each member to make a prima facie showing or the issue is susceptible to generalized, class-wide proof." *Id.* (citation modified).

Acadia argues that plaintiffs' state-law torts are each susceptible to a defense based on "the frequency of actual interruptions," which varies between class members. This distorts plaintiffs' theory.

As their trial plan explains, both the unjust enrichment and conversion claims depend on a single theory: that "the class as a whole was effectively on call during their unpaid meal breaks given the intersection of [Acadia's] policies and patient-care employees' ethical and legal obligations." (citation modified). We agree with the district court that this theory does not depend on individualized proof because all class members were subject to the same policies, and similar professional obligations.

To sustain this theory, plaintiffs offered evidence of Acadia's "employment policies, practices, and procedures [that] apply uniformly to the class, and [evidence that] expectations of the class members were consistent regardless of unit worked or precise job titles." For example, Acadia admits that "[i]n emergency situations . . . a nurse has an ethical duty [to] respond if another provider is not available to provide the needed services, even when on a break." And many employees testified that in practice, their meal breaks were at risk of interruption. So plaintiffs discharged their burden to offer evidence that common questions predominate. *Cf. Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 349–54 (2011).

We understand Acadia to argue that any unjust enrichment or conversion theory that does not consider interruption frequency is not viable. But plaintiffs' burden is only to show "that *questions* common to the class predominate, not that those questions will be answered, on the merits, in" the class's favor. *Amgen Inc. v. Conn. Ret. Plans & Tr. Funds*, 568 U.S. 455, 459 (2013). We cannot wander into "free-ranging merits inquiries at the certification stage." *Id.* We may consider merits questions only if relevant to whether plaintiffs satisfy "the Rule 23 prerequisites." *Id.* Even if plaintiffs on-call theory is not viable, it presents a common question, susceptible to a common answer. This is enough to sustain the district court's finding of predominance.[3]

Still, by certifying a class based on their on-call theory, plaintiffs narrow their unjust enrichment and conversion claims. They may do so at class certification, but we express no opinion on whether the on-call theory, if proven, could sustain liability for unjust enrichment or conversion. That is an issue for a dispositive motion or trial.

3. Class adjudication is the superior method to resolve the controversy.

Acadia next argues that plaintiffs fail to show superiority. This requirement asks "whether a class action is the superior method for adjudicating the controversy." *Ibe v. Jones*, 836 F.3d 516, 529 (5th Cir. 2016). We consider factors such as (1) "the class members' interests in individually controlling the prosecution . . . of separate actions," (2) "the extent and nature of any litigation . . . already begun by . . . class members," (3) "the desirability . . . of concentrating the litigation of the claims in the particular forum" and (4) "the likely difficulties in managing a class action." *Kincannon v. United Airlines, Inc.*, 168 F.4th 713, 733–34 (5th Cir. 2026) (quoting Fed. R. Civ. P. 23(b)(3)).

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[3] Because the Rule 23(a) commonality requirement is "subsumed under . . . the more stringent" predominance requirement, we do not address commonality separately. *See Elson*, 56 F.4th at 1006 (citation omitted). We reject Acadia's challenge to commonality for the same reasons that we reject its predominance challenge.

Acadia argues that the class would be unmanageable because "the individualized differences in meal break interruptions would result in different levels of damages among the class." Again, this distorts plaintiffs' theory.

They maintain that, if their meal periods were effectively on call, then "all meal periods are entirely compensable." Hence the damages calculations would be "as simple as looking at Defendants' time punch and payroll data for the class [to determine] how many unpaid meal periods class members worked in the statute of limitations." We agree with the district court that this is a manageable way to resolve damages. So the district court acted within its discretion when it found superiority satisfied.

4. Hamm and Wilson are typical and adequate class representatives.

We likewise reject Acadia's challenges to the Rule 23(a) typicality and adequacy requirements.[4] A class has typicality when "the claims or defenses of the representative parties are typical of" those of the class. Fed R. Civ. P. 23(a)(3). This requirement "is not demanding." *Stirman v. Exxon Corp.*, 280 F.3d 554, 562 (5th Cir. 2002) (citation omitted). "[T]he critical inquiry is whether the class representative's claims have the same essential characteristics [as] those of the putative class." *Id.* (citation omitted). "If the claims arise from . . . similar . . . conduct and share the same legal theory, factual differences [do] not defeat typicality." *Id.* (citation omitted).

Acadia claims that Wilson and Hamm never experienced an interrupted meal break, so their claims are not representative. But plaintiffs cite Wilson's testimony that she and other employees "never had a lunch

[4] Acadia does not challenge Rule 23(a)(1)'s numerosity requirement, so we do not address it.

break where we really sat down for 30 minutes uninterrupted." And again, plaintiffs' state-law theory does not depend on member-by-member interruption frequency to show class liability. Rather, plaintiffs maintain that breaks were "subject to the same possibility of interruption," which unjustly enriched Acadia with, or converted, their unpaid wages. Under this theory, Wilson's and Hamm's claims are typical; both were subject to the same policies and duties that might interrupt their breaks, and Wilson's breaks were, in fact, interrupted. We are thus unpersuaded that the district court abused its discretion in finding the representative's claims typical.

Nor are we persuaded that Hamm is an inadequate representative. The adequacy requirement asks whether the putative class representatives are willing and able "to take an active role in and control [of] the litigation and . . . protect the interests of absentees." *Berger v. Compaq Comput. Corp.*, 257 F.3d 475, 482 (5th Cir. 2001). Acadia claims that Hamm is inadequate because "she was responsible for ensuring others received uninterrupted breaks." Acadia dubs this "an inherent conflict," because "it is a strong defense to the class's claims."

The district court disagreed, finding that "Hamm maintains the willingness to participate as an active representative in the litigation and protect the interests of the unnamed class members." Acadia offers no meaningful response beyond speculating that Hamm's status as a supervisor subjects her claim to unspecified defenses. Nor does it identify any evidence that Hamm was responsible for the policies and ethical obligations for which plaintiffs allege Acadia is liable. To the extent Hamm has any conflict, it is not enough to categorically bar her from representing the class. Without more, we cannot say that the district court abused its discretion when it found Hamm to be an adequate representative.

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For these reasons, we DISMISS Acadia's appeal of the FLSA collective certification orders, and AFFIRM the district court's certification of a Rule 23 class. We REMAND the case for further proceedings.