

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

WENDELL WALTON, et al.,
Plaintiffs,
v.
AT&T SERVICES, INC.,
Defendant.

Case No. 15-cv-03653-VC

**ORDER DENYING MOTIONS FOR
SUMMARY JUDGMENT**

Re: Dkt. Nos. 156, 157

AT&T has moved in this collective action and proposed class action for summary judgment on the individual claims of the named plaintiffs, Wendell Walton and Michael Mantonya, arguing they are subject to the FLSA's administrative exemption. Because a reasonable jury could find that Walton and Mantonya spent their work time in ways that would not fall under the administrative exemption, the summary judgment motions are denied.¹

Michael Mantonya

Whether an employee's "primary duty includes the exercise of discretion and independent judgment with respect to matters of significance" is often a question of fact. 29 C.F.R. § 541.200; *see Morrison v. Cty. of Fairfax*, 826 F.3d 758, 773 (4th Cir. 2016) ("There is no doubt that application of the executive and administrative exemptions calls for a fact-intensive inquiry."); *Bothell v. Phase Metrics, Inc.*, 299 F.3d 1120, 1128 (9th Cir. 2002) ("It is impossible to determine whether Bothell's work was exempt . . . until the nature of his daily activities is

¹ While California's administrative exemption is worded somewhat differently than the federal law exemption, the parties agree – at least for the purposes of these motions – that the administrative exemption analysis is the same under both laws.

resolved by the fact-finder."). "The term 'matters of significance' refers to the level of importance or consequence of the work performed." 29 C.F.R. § 541.202 (providing a non-exclusive list of "[f]actors to consider when determining whether an employee exercises discretion and independent judgment with respect to matters of significance"); *Sirko v. Int'l Bus. Machs. Corp.*, No. 13-cv-03192-DMG (SSX), 2014 WL 12558855, at *8 (C.D. Cal. Aug. 22, 2014).

Mantonya has presented evidence that, prior to teaching a course, he underwent a "page-turn" training to learn in detail how AT&T wanted the course to be offered. Sagafi Decl. Ex. A (Sainz Dep.) at 69-74, 80-81, 84-86, 97-99. He would deliver the trainings as AT&T designed them to be delivered. Sagafi Decl. Ex. B (Devine-Henry Dep.) at 102:18-103:5 (Instructors "delivered curriculum as designed."); Sagafi Decl. Ex. C (Mantonya Dep.) at 53:16-19 ("We were given the curriculum, and we were specifically instructed to deliver the curriculum as it was presented to us."). And he was evaluated based on how well he delivered the curriculum as designed. Sagafi Decl. Ex. B (Devine-Henry Dep.) at 115:7-10. AT&T points to times when Mantonya exercised greater discretion, but those did not necessarily constitute a "primary duty." *See Heffelfinger v. Elec. Data Sys. Corp.*, 492 F. App'x 710, 714 (9th Cir. 2012) (denying summary judgment based on the administrative exemption even though the employee "spent part of his time assigning and coordinating work, determining schedules, reviewing assignments, and running team meetings").

Therefore, Mantonya has at least raised a genuine question about whether he exercised discretion with respect to matters of significance. In the cases offered by AT&T in support of its motion, employees had discretion with respect to matters of greater significance in their teaching than AT&T has shown here. *See Morales v. Compass Grp., PLC*, No 13-cv-09231-JFW (MANx), 2014 WL 5304913 (C.D. Cal. Oct. 16, 2014) (employee responsible for auditing classes, running focus groups, and creating training materials from scratch); *Schwind v. EW & Assocs.*, 357 F. Supp. 2d 691, 706 (S.D.N.Y. 2005) (employee acted as a liaison between the business and its clients and was involved in business and finance decisions, including negotiating

contracts); *Int'l Ass'n of Fire Fighters, Alexandria Local 2141 v. City of Alexandria*, 720 F. Supp. 1230, 1234 (E.D. Va. 1989) ("The training lieutenant . . . is the officer responsible for the development and administration of all training programs for the fire department.").²

Wendell Walton

There are also genuine issues of material fact about whether Walton exercises discretion with respect to matters of significance. Walton has presented evidence that he obtains the content and objectives for the trainings he designs from others. Marsili Decl. Ex. B (Walton Decl. ¶¶ 4-6, 11); Marsili Decl. Ex. C (Gilbert Dep.) at 71-75, 77. He uses template software (PowerPoint, SCOBi, DocuTools, and Lectora) in conjunction with a repository (IDPro) of design policies, procedures, styles, templates, and checklists to develop the trainings without meaningful discretion. Marsili Decl. Ex. B (Walton Decl.) ¶¶ 15, 21, 25-31; Marsili Decl. Ex. D (Walton Dep.) at 23:19-25 ("I think that with the development of work flows and processes and procedures, a lot of them are contained in IDPro where a lot of the needs analysis and client interfaces and interactions were taken out of our hands that – and we were – our duties and responsibilities were moved down the food chain. At that point we became order takers."). And his work is subject to a detailed process for review and approval. Marsili Decl. Ex. B (Walton Decl.) ¶¶ 7-9; Marsili Decl. Ex. D (Walton Dep.) at 87:2-88:11.³

AT&T emphasizes that courts have granted summary judgment on the application of the administrative exemption even when employees were subject to a style guide or oversight of their work. *See Miller v. Farmers Ins. Exch. (In re Farmers Ins. Exch., Claims Representatives' Overtime Pay Litig.)*, 481 F.3d 1119, 1129-31 (9th Cir. 2007). But the core issue is that

² AT&T emphasizes that the plaintiffs' job titles and job descriptions suggest that they should be covered by the administrative exemption. But the job title and job description are not important. *See Campbell v. PricewaterhouseCoopers, LLP*, 642 F.3d 820, 830 (9th Cir. 2011); *Perine v. ABF Freight Sys., Inc.*, 457 F. Supp. 2d 1004, 1012 (C.D. Cal. 2006) ("[W]hether an employee is exempt or non-exempt is an issue of fact, and the employee's job title is unimportant.").

³ Walton's job description is largely consistent with his account of how he spends his work time and does not compel a conclusion that he is administratively exempt even if there is actually a 70 to 99 percent match between his job responsibilities and job description. *See Kaufman Decl. Ex. C-3 (job affirmation) at 2.*

employees in the cases AT&T cites exercised discretion in matters of greater significance than Walton does. For example, the writers at nuclear power plants in *Renfro v. Indiana Michigan Power Co.* worked with autonomy to determine solutions to maintenance obstacles and drafted those solutions into content for technical manuals. 497 F.3d 573, 575-77 (6th Cir. 2007); *see West v. Anne Arundel Cty.*, 137 F.3d 752, 764 (4th Cir. 1998) (The primary tasks of Training Lieutenants included "not only developing and coordinating all EMS training programs but also administering tests and evaluating new equipment."); *Cobb v. Finest Foods, Inc.*, 582 F. Supp. 818, 823-24 (E.D. La. 1984) ("[P]laintiff exercised complete discretion in training cooks and determining the methods of food preparation. In fact, plaintiff was one of two employees responsible for the preparation of a cook book used in standardizing food production techniques at all of defendant's operations.").

IT IS SO ORDERED.

Dated: April 28, 2017



VINCE CHHABRIA
United States District Judge