IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

STEVE WARD and FRANCIS TRESSA, individually and on behalf of all other similarly situated persons,	)	
Plaintiffs,	)	C.A. No. N17C-10-199 MMJ
v.	)	
CAREFUSION SOLUTIONS, LLC,	)	
Defendant.	)	

Submitted: November 13, 2018
Decided: December 4, 2018

Upon Defendant's Motion to Dismiss Plaintiff's First Amended Complaint DENIED.

OPINION

Daniel C. Herr, Esq. (Argued), Jack D. McInnes, Esq., Attorneys for Plaintiffs and the Putative Class

Elizabeth S. Fenton, Esq., Danielle N. Petaja, Esq., Saul Ewing Arnstein & Lehr LLP, Matthew J. Hank, Esq. (Argued), Helga P. Spencer, Esq., Littler Mendelson P.C., Attorneys for Defendant CareFusion Solutions, LLC

JOHNSTON, J.

PROCEDURAL HISTORY

This is a class action suit brought by Plaintiff workers against Defendant employer. The suit seeks to recover allegedly unpaid wages and work-related expenses. Plaintiffs allege that they should be classified as Defendant's employees

rather than independent contractors. Plaintiffs claim that because they are employees, Sections 510, 1194, 1198, and 2802 of the California Labor Code entitle them to recover work-related expenses and overtime wages. Plaintiffs argue that California law controls because the Maintenance and Service Agreements ("Agreements") designate California as the choice of law. Defendant filed a Motion to Dismiss Plaintiffs' Complaint, arguing primarily that California laws on which Plaintiffs rely do not apply to work performed outside of California.

By Opinion dated March 13, 2018,[1] the Court granted Defendant's Motion to Dismiss without prejudice and granted Plaintiffs leave to amend the complaint. The Court held: "Though the contract is insufficient to create a cause of action under California law, it would not be futile for the Plaintiffs to amend the complaint to assert contract claims or claims based on labor laws in states in which Plaintiffs performed services."[2] In response to the Court's ruling, Plaintiffs filed their First Amended Complaint on April 10, 2018. On August 17, 2018, Defendant filed a Motion to Dismiss Plaintiffs' First Amended Complaint.

In Plaintiffs' First Amended Complaint, Plaintiffs argue that because the Agreements are contrary to public policy and/or violate express mandates of one or more statutes, they are void and/or unenforceable. Plaintiffs also assert that the

[1] 2018 WL 1320225 (Del. Super.).
[2] *Id.* at *3.

nature of Plaintiffs' and Defendant's employment relationship establishes Plaintiffs as employees rather than independent contractors. Plaintiffs argue that despite the nature of the relationship, Defendants misclassify the Plaintiffs as independent contractors and fail to comply with California labor laws or alternative labor laws. Plaintiffs argue this renders the Agreements violative of public policy. Essentially, Plaintiffs argue that Defendant uses unlawful Agreements to misclassify Plaintiffs as independent contractors and reap the benefits of not having to pay them like employees.

Defendant argues that the Motion to Dismiss should be granted because: Plaintiffs' claim is preempted by statute and by contract; unjust enrichment is not a freestanding claim under California law; Plaintiffs improperly attempt to apply California and Delaware law; Plaintiffs fail to plead facts suggesting unjust enrichment can be proven on a class-wide basis; and Plaintiffs' claims sound in equity, therefore the jury demand should be stricken.

Plaintiffs contend that their claims are not preempted by statute or contract. Further, California law recognizes unjust enrichment as a quasi-contract claim for restitution, and California law, or alternatively Delaware law, applies extraterritorially. Finally, Plaintiffs have plead facts establishing that unjust enrichment can be proven on a class-wide basis.

Defendant countered that Plaintiffs' quasi-contract theory is a veiled attempt to proceed under the California labor code, which the Court already has decided does not apply extraterritorially. Defendants also argue that the Court should not allow Plaintiffs to proceed under a "multi-state patchwork" of unjust enrichment claims. Defendants make arguments similar to those found in their opening brief, adding that Defendants' argument to strike the jury demand is currently unopposed.

Oral argument was heard on November 13, 2018. Defendant argued that Plaintiffs' amended complaint added nothing new to the original complaint and should be similarly dismissed.

MOTION TO DISMISS STANDARD

In a Rule 12(b)(6) motion to dismiss, the Court must determine whether the claimant "may recover under any reasonably conceivable set of circumstances susceptible of proof."[3] The Court must accept as true all well-pleaded allegations.[4] Every reasonable factual inference will be drawn in the non-moving party's favor.[5]

[3] *Spence v. Funk*, 396 A.2d 967, 968 (Del.1978).
[4] *Id.*
[5] *Wilmington Sav. Fund. Soc'v, F.S.B. v. Anderson*, 2009 WL 597268, at *2 (Del. Super.) (citing *Doe v. Cahill*, 884 A.2d 451, 458 (Del. 2005)).

If the claimant may recover under that standard of review, the Court must deny the motion to dismiss.[6]

ANALYSIS

In order for Plaintiffs to prove liability, Plaintiffs ultimately must establish: (1) that the Agreements are unenforceable as against public policy; (2) that Plaintiffs are employees rather than independent contractors; and (3) that Plaintiffs are entitled to unjust enrichment damages.

The Court already has held that the Agreements are insufficient to establish a valid claim under California labor law.[7] Plaintiffs have not set forth any alternative applicable state law to support their claims. However, the Court finds that Plaintiffs have satisfied Delaware's notice pleading standard[8] and have set forth facts sufficient to overcome Defendant's Motion to Dismiss on a quasi-contract theory.

In *Bellanca Corporation v. Bellanca*,[9] the Delaware Supreme Court found: "Quasi-contractual relationships are imposed by law in order to work justice and without reference to the actual intention of the parties. Fundamentally, it seems, quasi-contractual relationships are based upon unjust enrichment and upon an

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[6] *Spence*, 396 A.2d at 968.
[7] 2018 WL 1320225, at *3 (Del. Super.).
[8] *See Savor Inc. v FMR Corp.*, 812 A.2d 894 (Del. 2002)(holding "even vague allegations are 'well-pleaded' if they give the opposing party notice of the claim.").
[9] 169 A.2d 620 (Del. 1961).

imposed duty to restore a plaintiff to a former status."[10] Having found that Plaintiffs allege facts sufficient to overcome Defendant's Motion to Dismiss on a quasi-contract theory, the Court need not address at this time the nature and quality of Plaintiffs' employment or whether Plaintiffs are entitled to unjust enrichment damages.

[10] *Id.* at 623.

CONCLUSION

The Court finds that Plaintiffs have alleged facts sufficient to overcome Defendant's Motion to Dismiss under a common law quasi-contract theory. Therefore, Defendant CareFusion Solution's Motion to Dismiss is hereby **DENIED**.

The next step is for the parties to address whether or not Plaintiffs may be certified as a class. The Court anticipates Plaintiffs' motion to certify the class.

IT IS SO ORDERED.

The Honorable Mary M. Johnston