



Minnesota Appellate Court Issues in Briefs

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CASE NAME: Lester Wenigar, Respondent, vs. Lee Johnson, d/b/a Johnson's, Johnson's Sanitation, and Stratton Farms, Appellant.

Read the opinion in this case at [A05-158, A05-473](#)

CITATION: 712 N.W.2d 190 (Minn.App. 2006)

Legal Issues in [APPELLANT'S BRIEF](#) AND APPENDIX:

- Whether the district court erred in finding Appellant liable for unpaid overtime compensation pursuant to the state and federal Fair Labor Standards Acts where Respondent was not a covered employee under either Act and Appellant was not a covered employer. The district court found Appellant liable under both Fair Labor Standards Acts and awarded Respondent \$119,457 in damages. **Apposite authorities:** 29 U.S.C. § 203(f), Minn. Stat. § 177.23, subd. 7(2). 29 U.S.C. § 203(s)(1)(A)(i,ii). *Baldwin v. Iowa Select Farms, L.P.*, 6 F. Supp.2d 831 (N.D. Iowa 1998).
- Whether the district court erred in finding Appellant liable for disability hostile work environment under the Minnesota Human Rights Act where that claim has never been recognized under Minnesota law, Respondent has not demonstrated the existence of a hostile work environment, and Respondent had no evidence of recoverable damages. The district court found Appellant liable for creating a disability hostile work environment and awarded Respondent \$119,909.50 in damages. **Apposite authorities:** *Goins v. West Group*, 635 N.W.2d 717 (Minn. 2001). *Wirig v. Kinney Shoe Corp.*, 461 N.W.2d 374 (Minn. 1990). *Minneapolis Police Department v. Minneapolis Comm'n on Civil Rights*, 402 N.W.2d 125 (Minn. Ct. App. 1987), *aff'd* 425 N.W.2d 235 (Minn. 1988).
- Whether the district court erred in finding Appellant liable for intentional infliction of emotional distress where Appellant's conduct was not extreme, outrageous, intentional or reckless, Respondent did not suffer severe emotional distress, the emotional distress Respondent did suffer was not casually related to Appellant's conduct, and much of the district court's damages award is barred by the statute of limitations. The district court found Appellant liable for intentional infliction of emotional distress and awarded Respondent \$200,000 in damages. **Apposite Authorities:** *Hubbard v. United Press International Inc.*, 330 N.W.2d 428 (Minn. 1983) *Langeslag v. KYMN Inc.*, 664 N.W.2d 860 (Minn. 2003) Minn. Stat. § 541.07(1).

Legal Issues in [RESPONDENT'S BRIEF](#) AND APPENDIX:

- Whether the district court was correct in finding Appellant liable under the Federal and State FLSAS. **Apposite authorities:** *Maneja v. Waialua*, 349 U.S. 254 (1955); *Walling v. Friend*, 156 F.2d 429, 432 (8th Cir. 1946); 29 C.F.R. § 785.20.
- Whether the district court was correct in finding Appellant liable for a disability hostile work environment claim under the MHRA. **Apposite authorities:** 42 U.S.C. § 12112(a); Minn. Stat. § 363 et al.; *Shaver v. Independent Stave Company*, 350 F.3d 716, 720 (8th Cir. 2003); *St. Hilairie v. Minco Products, Inc.*, 288 F. Supp. 2d 999 (D. Minn. 2003).
- Whether the district court was correct in finding Appellate liable for the claim of Intentional Infliction of motional Distress. **Apposite authorities:** *Kelly v. City of Minneapolis*, 598 N.W.2d 657 (Minn. 1999); *Moysis v. DTG Datanet*, 278 F.3d 819 (C.A. 8 (S.D.) 2002).

Legal Issues in [APPELLANT'S REPLY BRIEF](#):

- Wenigar's arguments in support of the district court's findings of liability and damages under the MHRA are untenable. Minnesota does not recognize a MHRA claim for hostile work environment. There is no basis for awarding Wenigar MHRA damages.
- Wenigar's arguments in support of the district court's findings of liability and damages under the state and federal Fair Labor Standards Acts are untenable. Wenigar was exempt under the federal FLSA as an "employee employed in agriculture". Wenigar is exempt from the state FLSA. Johnson's farm business was not an "enterprise engaged in commerce" and thus is not covered by the federal FLSA.
- Wenigar's arguments in support of the district court's findings of liability and damages for intentional infliction of emotional distress are untenable. Johnson did not engage in extreme, outrageous, intentional or reckless conduct. Wenigar does not attempt to defend the district court's error in awarding emotional distress damages for 44 1/2 months occurring before the statute of limitations cut-off.

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