

Shin & Kim Successfully Defends Largest Broadcasting Company against KRW 185 Billion Comprehensive Wage Agreement Lawsuit Brought by its Employees

On February 10, 2017, Shin & Kim successfully defended Korea's largest broadcasting company against a lawsuit by its employees seeking approximately KRW 185 billion in unpaid wages. The total number of plaintiffs numbered 2,257, of which 1,599 remained when the final judgment was rendered.

Validity of Comprehensive Wage Agreement

The plaintiffs, who had served in the broadcasting, technical and management departments, among others, alleged that the company did not pay the required overtime allowances (which include overtime, nighttime, and/or holiday payments) as provided for under the Labor Standards Act. Representing the broadcasting company, Shin & Kim argued that the plaintiffs had agreed to a valid comprehensive wage agreement where a portion of total overtime allowance would be included as part of their basic salary and the remainder of the overtime allowance would be determined by the number of hours actually worked by the employee. As part of our argument, we asserted that it was difficult to determine the actual number of hours worked by employees due to the nature of the work in broadcasting, but regardless the company's payments were sufficient to cover overtime allowance and therefore the comprehensive wage agreement was not unfairly disadvantageous to the employees and should be recognized as valid.

The Seoul Southern District Court agreed and ruled the comprehensive wage agreement was valid and that the company had satisfied its obligations under the comprehensive wage agreement to pay the required overtime allowances under the Labor Standards Act.

Significance of the Judgment

The present judgment is especially meaningful because in a recent, related case, the Korean Supreme

Court did not acknowledge the validity of a comprehensive wage system in principle, making it difficult for employers to defend against lawsuits attacking the validity of comprehensive wage agreements. However, despite the uncertainty surrounding the recent Supreme Court decision, Shin & Kim was able to successfully argue that the comprehensive wage agreement entered into between the company and its employees was fair and valid with respect to the calculation of overtime allowance.

Shin & Kim is a leader in labor and employment law with extensive experience, expertise, and a remarkable track record. Additional successful representations include our representation of Korea Train Express (KTX) against a claim brought by crew members regarding dispatched workers, our representation of Ssangyong Motor Company in a dispute with its labor union, and our representation of Korea Development Bank regarding its merit-based wage system, among many others. Please contact us should you have any questions regarding any of the aforementioned and we will look forward to discussing any related matter in more detail.

Should you have any questions regarding any of the foregoing, please feel free to contact us at any time.

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