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법무법인(유) 세종

Court Holds Agreement Not to Sue Invalid as to Future Ordinary Wage Claims but Orders Return of Settlement Payments as Unjust Enrichment

(*Gahap*10658 dated September 8, 2026)

1. Background and Issues

The plaintiffs were employees of the defendant. In 2014, employees filed a lawsuit disputing whether bonuses should be included in ordinary wages. In response, the defendant and the labor union accepted a mediation proposal from the Labor Relations Commission under which employees would receive a lump-sum payment and vacation allowances totaling KRW 5.2 million, together with an increase in their monthly transportation allowance to KRW 80,000, on the condition that bonuses would be excluded from ordinary wages. The parties also amended the collective bargaining agreement to make bonus payments subject to a continued-employment requirement.

Of the plaintiffs in the earlier lawsuit, 566 submitted written statements agreeing not to raise any further objections concerning ordinary wages, including claims for retroactive payments and amounts arising in the future, and withdrew their lawsuit.

The plaintiffs subsequently filed the present lawsuit, arguing that monthly bonuses, holiday travel and vacation allowances, allowances for working under a three-team, two-shift system, and night-shift allowances constituted ordinary wages. They sought the differences in statutory allowances and severance pay attributable to the period after the labor-management agreement was concluded. The defendant argued that the lawsuit was inadmissible on the basis of the agreement not to sue. In the alternative, the defendant filed a counterclaim seeking repayment of the lump-sum payments and other compensation provided in consideration for that agreement if it were found invalid.

The central issues were whether the agreement not to sue was enforceable with respect to wage claims arising in the future and, if not, whether the payments made in consideration for the agreement constituted unjust enrichment.

2. Court's Holding and Reasoning

The court held that the agreement not to sue was invalid and granted most of the plaintiffs' claims. It also granted the defendant's alternative counterclaim.

Invalidity of the Agreement Not to Sue

Based on the principle that agreements not to sue and declarations of intent concerning wage claims must be interpreted strictly, the court held that waiving or excluding wage claims before they arise violates the Labor Standards Act and other applicable laws, and that recognizing such an agreement as valid merely because employees had received financial compensation would undermine the legislative purpose of protecting wage claims.

The court also considered developments that would have been difficult to anticipate when the agreement was concluded, including subsequent decisions recognizing regular bonuses subject to continued-employment requirements as ordinary wages. Accordingly, the court held that the agreement not to sue was invalid and rejected the defendant's preliminary objection that the lawsuit was inadmissible.

Determination of Ordinary Wages

On the merits, the court applied the legal principles established by the Supreme Court's 2024 *en banc* decision, which removed fixedness as a defining criterion for ordinary wages. The court found that the bonuses constituted ordinary wages because they were paid at an annual rate of approximately 500 percent, in monthly installments regardless of performance or results, and represented a substantial portion of employees' compensation. The court also held that holiday travel and vacation allowances constituted ordinary wages because the grounds for payment and the amounts were prescribed in the wage regulations, and the allowances were paid regularly and uniformly each year.

Similarly, allowances for working under a three-team, two-shift system and night-shift allowances constituted ordinary wages because fixed amounts were paid to all employees who met the relevant working conditions. By contrast, the court held that the meal allowance did not constitute ordinary wages. Under the collective bargaining agreement, KRW 1,100 per day was included solely for purposes of calculating ordinary wages and was not actually paid to employees. The court therefore found that this notional amount could not be regarded as compensation for prescribed work.

Repayment of Compensation as Unjust Enrichment

The court further held that, because the agreement not to sue was invalid, the KRW 5.2 million paid as a lump-sum payment and vacation allowances in consideration for the agreement constituted payments made without legal grounds and were therefore recoverable as unjust enrichment. The court reached the same conclusion regarding the increase in transportation allowances, finding that the additional payments were linked to the agreement not to sue in light of the terms of the mediation proposal and the wage and collective bargaining agreement.[1]

The court also found that the plaintiffs had become aware of the invalidity of the agreement no later than the date of the Supreme Court's 2024 *en banc* decision. Accordingly, it held that they were recipients of unjust enrichment in bad faith

as of that date and were required to repay the amounts received with interest accruing from the following day.

3. Implications

This decision is significant in holding that an agreement not to sue, even if concluded to resolve an ordinary wage dispute, is unenforceable insofar as it purports to bar claims for wages that have not yet arisen. The court reached this conclusion notwithstanding the financial compensation provided in exchange for the agreement and also considered subsequent changes in the case law underlying the parties' original understanding.

At the same time, the decision illustrates the potential financial consequences for employees who challenge the validity of such agreements. Where an agreement not to sue is found invalid, lump-sum payments and increased transportation allowances provided in consideration for that agreement may be recoverable as unjust enrichment. In this case, the court also held that the employees were recipients of unjust enrichment in bad faith as of the date of the Supreme Court's 2024 *en banc* decision and were therefore required to pay interest from the following day.

This decision provides a useful reference for workplaces where the validity of existing ordinary wage agreements is being challenged following the Supreme Court's 2024 *en banc* decision.

[1] Note: Although the judgment does not expressly address this point, the court appears to have treated the entire agreement not to sue as invalid, including the portion relating to claims that had already arisen.

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