

■ Recent Court Cases ■

Store managers of consignment sale store based on consignment agreements with company at department store are not employees

[Case No. Seoul High Court decision 2018na2054232 dated December 20, 2019]

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The defendant is a company in the business of manufacturing and selling clothes and leather products. The plaintiffs entered into a consignment agreement (“Agreement”) respectively for each plaintiff to sell certain products of the defendant at the store inside the department store where the defendant’s products were displayed, in exchange of certain fees from the defendant. Each plaintiff worked as the salesperson at the department store.

The issue in this case was whether the plaintiffs were employees as defined under the Labor Standards Act. The court found that the plaintiffs were not employees of the defendant based on the following reasons, and thereby dismissed the claims of the plaintiffs.

1. The plaintiffs performed services in the capacity set forth under the Agreement, and did not appear to have performed any services which were unrelated to the Agreement by the order of the defendant.
2. The stores where the plaintiffs worked were not unilaterally designated by the defendant after the execution of the Agreement but assigned by considering the input from the plaintiffs after individual consultation at the time of the execution of the Agreement with the plaintiffs.

3. The plaintiffs hired a number of sales support staff as needed based on the surrounding circumstances, and determined the compensation for the sales support staff.
4. The plaintiffs received certain fees as the compensation from the defendant. The fees were calculated based on the amount corresponding to a certain rate out of the amount of the sales at the store by each plaintiff from the first day to the last day of each month.