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Logistics Cos. Can't Escape Worker Visa Misuse Class Action

By **Rae Ann Varona**

Law360 (August 29, 2025, 10:12 PM EDT) -- Two logistics companies have failed to escape a proposed class action accusing them of misusing a professional worker visa program to lure workers from Mexico, with a Georgia federal judge trimming out some discrimination and fair labor claims, but allowing several others to proceed.

U.S. District Judge J.P. Boulee on Thursday denied in part and granted in part motions that Glovis Georgia LLC and GFA Alabama Inc. had filed seeking to toss two Mexican residents' lawsuit accusing the companies of luring skilled workers from Mexico to the U.S. with empty promises of well-paying technical jobs under the TN nonimmigrant visa program.

The program allows Mexican and Canadian citizens in certain occupations to temporarily work in the U.S. in certain professions, like engineering.

Among the claims Judge Boulee dismissed in his **135-page** order were claims alleging a discriminatory, hostile work environment, and overtime and minimum wage claims under the Fair Labor Standards Act based on unlawful deductions.

In dismissing the hostile work environment claim against Glovis, Judge Boulee said there were "simply no factual allegations to support an inference" that a supervisor's prohibition on speaking Spanish and "repeated comments that hearing Spanish was 'sickening' amounts to the type of severe or pervasive conduct necessary to support a hostile work environment claim."

Claims left in the suit include a claim against Glovis under the Georgia RICO Act and claims accusing Glovis and GFA of requiring overtime as an adverse employment action.

To the latter, Judge Boulee explained the workers only needed to show some injury concerning their employment terms of conditions and an adverse action that left them worse off.

"Here, plaintiffs allege that they were required to work excessive overtime and were not paid properly at an overtime rate," Judge Boulee said. "Plaintiffs' allegations, if supported after discovery, could plausibly meet that test."

Mexico residents Jimmy Martinez-Lopez and Rosa Linda Soriano-Torres, who **first filed** the putative class action in June 2024 and amended it in October, seek to represent a putative class of individuals who, sometime since June 20, 2019, were hired by GFA, worked at either of two Georgia-based warehouses central to the suit, received wages from GFA and were TN visa holders.

GFA is a logistics company and labor recruiter with warehouses in Alabama and Georgia, including one in McDonough, Georgia, according to the lawsuit. Glovis is a Georgia-based logistics company and part of the South Korean Hyundai Kia Automotive Group. Glovis operates its own Georgia warehouse in West Point using GFA's materials handling services.

Martinez and Soriano also seek to represent a McDonough subclass and a West Point subclass of workers who were non-white Hispanic or Latino, non-U.S. citizens and of Mexican national origin.

Soriano, a chemist, and Martinez, an industrial engineer, alleged in their latest complaint that Glovis and GFA "hatched a scheme to recruit highly skilled Mexican engineers and technicians for non-

existent professional-level positions that would qualify for the TN visa program."

They said the companies carried out a fraudulent "bait and switch" plan that involved helping those engineers and technicians secure TN visas by submitting fraudulent documents to the U.S. government. They said that once the foreign workers got to the U.S., the companies put them on manual labor jobs with lower and discriminatory pay and excessive mandatory work hours.

According to their complaint, GFA required Martinez to work at a packaging machine at the McDonough warehouse to package LG appliances instead of giving him the professional engineering work it promised him. The complaint alleged GFA and Glovis similarly assigned Soriano to do manual labor at the West Point warehouse, "without engineering duties."

The two brought a total of 14 counts in their amended complaint.

GFA filed a partial motion to dismiss the latest complaint in November, seeking to dismiss all or part of 10 of 14 causes of action against it.

Glovis, on the same day, also filed a motion to dismiss all of the claims against it. Glovis also **filed a motion** before the amended complaint was filed.

On Thursday, Judge Boulee allowed GFA, but not Glovis, to escape a claim alleging retaliation under Title VII of the Civil Rights Act of 1964. Soriano had individually brought a retaliation claim against Glovis, while Martinez brought one against GFA.

As to GFA, Judge Boulee agreed with the company that Martinez didn't plausibly allege causation.

He said that Martinez "has not alleged facts indicating who made the decision to take adverse action against him or whether that person was even aware of his complaints."

"The court finds that Martinez has not plausibly alleged causation between his internal complaints and the alleged adverse action of being given more work that was more difficult," Judge Boulee said.

But as to Glovis, Judge Boulee rejected Glovis' contention that Soriano, who learned she was pregnant in 2022, didn't plead facts that anyone at the company knew she was pregnant or about a request she made for a pregnancy accommodation.

"After she requested an accommodation from her GFA managers, Soriano alleges that her GFA supervisor told her that 'all worker information' was shared with Glovis and that Glovis knew about and disapproved of her pregnancy," Judge Boulee said. "At this stage, this is enough to plausibly allege that Glovis knew about her pregnancy and her request for accommodation."

Daniel Werner of Radford Scott LLP, an attorney for Martinez and Soriano, told Law360 on Friday that Judge Boulee's decision was "thoughtful and thorough."

"Nearly all the claims, including Georgia RICO, Title VII, and Section 1981, will now proceed. We look forward to litigating the case," Werner said.

Counsel for the companies did not immediately respond to requests for comment late Friday.

Martinez and Soriano are represented by Brian J. Sutherland and Rachel Berlin Benjamin of Beal Sutherland Berlin & Brown LLC, Daniel Werner and James Radford of Radford Scott LLP, Christopher B. Hall of Hall & Lampros LLP, and Abigail R. Kerfoot of Centro De Los Derechos Del Migrante Inc.

GFA is represented by John D. Bennett, Michael M. Hill and William H. Buechner Jr. of Freeman Mathis & Gary LLP.

Glovis is represented by W. Jonathan Martin II, Sarah M. Phaff and Timothy Boughey of Constangy Brooks Smith & Prophete LLP.

The case is Jimmy Martinez-Lopez et al. v. GFA Alabama Inc. et al., case number 1:24-cv-02676, in the U.S. District Court for the Northern District of Georgia.

--Additional reporting by Emilie Ruscoe and Chart Riggall. Editing by Lakshna Mehta.

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