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(Cite as: 727 F.Supp.2d 1382)

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United States District Court,
S.D. Florida,
Miami Division.
Lorena BELTRAN-MOYA, Plaintiff,
v.
HI-TECH AUTOBODY, INC. and Frank Ron-
quillo, Defendants.

Case No. 09-21461-CV.

July 29, 2010.

Background: Secretary brought action against employer, alleging violation of the Fair Labor Standards Act (FLSA). After a jury returned its verdict, employer filed motion for entry of final judgment and secretary filed motion for new trial.

Holding: The District Court, [James Lawrence King, J.](#), held that jury's verdict was not inconsistent.

Defendant's motion granted, and plaintiff's motion denied.

West Headnotes

[1] Federal Civil Procedure 170A  **2237.1**

170A Federal Civil Procedure

170AXV Trial

170AXV(J) Special Verdict

170Ak2237 Form and Sufficiency of Verdict

dict

170Ak2237.1 k. In general. [Most Cited Cases](#)

A verdict contains an inconsistency if the verdict does not represent a logical decision on the issues as submitted to the jury.

[2] Federal Civil Procedure 170A  **2237.1**

170A Federal Civil Procedure

170AXV Trial

170AXV(J) Special Verdict

170Ak2237 Form and Sufficiency of Verdict

170Ak2237.1 k. In general. [Most Cited Cases](#)

To determine if a verdict is inconsistent, a court considers the case-pleadings, evidence, argument, jury instructions, and the jury's answers themselves.

[3] Federal Civil Procedure 170A  **2242**

170A Federal Civil Procedure

170AXV Trial

170AXV(J) Special Verdict

170Ak2242 k. Construction and operation. [Most Cited Cases](#)

A court must make all reasonable efforts to reconcile an inconsistency in a jury verdict; in other words, if there is a view of the case which makes the jury's answers consistent, the court must adopt that view and enter judgment accordingly.

[4] Federal Civil Procedure 170A  **2242**

170A Federal Civil Procedure

170AXV Trial

170AXV(J) Special Verdict

170Ak2242 k. Construction and operation. [Most Cited Cases](#)

The court cannot strain to reconcile an inconsistency in a jury verdict when it is not reasonable to do so.

[5] Labor and Employment 231H  **2399**

231H Labor and Employment

231HXIII Wages and Hours

231HXIII(B) Minimum Wages and Overtime

Pay

231HXIII(B)6 Actions

231Hk2395 Trial

231Hk2399 k. Verdict and findings.

[Most Cited Cases](#)

Jury's verdict finding that secretary was not owed overtime wages pursuant to the Fair Labor

Standards Act (FLSA) was not inconsistent with jury's verdict that secretary had worked more than 40 hours in any single work week in secretary's FLSA action against employer; secretary worked overtime some days but was given time to go to the doctor, as well as time to go home during work hours to care for her child and was paid in excess of her normal due amounts. Fair Labor Standards Act of 1938, § 1 et seq., 29 U.S.C.A. § 201 et seq.

*1383 Keith Michael Stern, Esq., Shavitz Law Group, Boca Raton, FL, Michael Lawrence Scheve, Esq., Shavitz Law Group, Boca Raton, FL, for Plaintiffs.

Chris Kleppin, Esq., Glasser Boreth & Kleppin, Plantation, FL, Barry G. Feingold, Esq., Plantation, FL, Kristopher Walter Zinchiak, Esq., Glasser, Boreth, & Kleppin, Plantation, FL, for Defendants.

**ORDER DENYING PLAINTIFF'S MOTION
FOR A NEW TRIAL**

JAMES LAWRENCE KING, District Judge.

THIS CAUSE comes before the Court upon Defendants' Motion for Entry of Final Judgment (DE # 62), filed June 30, 2009. Plaintiff filed a Response in Opposition to Defendants' Motion for Entry of Judgment and an Alternative Motion for New Trial (DE # 69) on June 14, 2010. ^{FNI}

FNI. Defendants Replied (DE # 71) to their Motion for Final Judgment on June 21, 2010. Plaintiff's Motion for a New Trial was re-filed as an Alternative Motion for New Trial (DE # 73). Defendants filed a Response in Opposition to Plaintiff's Motion for New Trial (DE # 77) on July 1, 2010 and Plaintiff filed a Reply (DE # 79) on July 12, 2010. On July 19, 2010, Defendants filed a Motion for Leave to File a Sur-Reply (DE # 80), Plaintiff filed a Response in Opposition (DE # 81) on July 22, 2010 and on July 26, 2010 Defendants Replied (DE # 82).

This matter arises under the Fair Labor Standards Act ("FLSA"). Plaintiff, employed*1384 as a secretary/receptionist at Defendant Hi-Tech Autobody, Inc., filed a Complaint (DE # 1) on May 29, 2009 alleging that she regularly worked in excess of forty hours per week, but was not paid for those hours. On May 13, 2010, the Court conducted a two-day jury trial on Plaintiff's claim for overtime wages. Upon the conclusion of the trial and deliberation of the jury, the jury returned its verdict. The Jury answered the verdict form as follows:

1. Do you find from a preponderance of the evidence that the Plaintiff worked more than Forty (40) hours in any single work week during the limitations period for HI TECH AUTOBODY, INC.?

YES

If you answered "No" to this question, then your verdict is for the Defendants and you should sign and date this verdict form and return it to the bailiff.

If you answered "Yes" to this question, then you must next proceed to question # 2.

2. Do you find from a preponderance of the evidence that the Plaintiff is owed overtime wages for any work week in which she worked more than Forty (40) hours in a week during the limitations period while employed by HI TECH AUTOBODY INC.?

NO

If you answered "No" to this question, your verdict is for the Defendants and you should sign and date this verdict form and return it to the bailiff.

If you answered "Yes" to this question, you must proceed to question # 3.

(Jury Verdict Form, DE # 61.)

In this Motion, Defendants contend that since the jury answered “no” to the second question and did not find that the Plaintiff was owed any overtime wages, the Court should enter final judgment on the Defendants' behalf. Plaintiff responds that these verdicts are inconsistent and asks the Court to either enter judgment for Plaintiff or grant a new trial on the issue of damages alone.

[1][2][3][4] A verdict contains an inconsistency if the verdict does not represent a logical decision on the issues as submitted to the jury. *Wilbur v. Youth Services, Int'l, Inc.*, 393 F.3d 1192, 1200 (11th Cir.2004) (citing *Aquachem Co. v. Olin Corp.*, 699 F.2d 516, 521 (11th Cir.1983)). To determine if a verdict is inconsistent, the court considers the case-pleadings, evidence, argument, jury instructions, and the jury's answers themselves. *Id.* (citing *Royal Cup, Inc. v. Jenkins Coffee Serv., Inc.*, 898 F.2d 1514, 1521 (11th Cir.1990)). The court must “make all reasonable efforts to reconcile the [inconsistency].” *Id.* (citing *Boczar v. Manatee Hosps. & Health Sys., Inc.*, 993 F.2d 1514, 1516 n. 5 (11th Cir.1993)) (quoting *Burger King v. Mason*, 710 F.2d 1480, 1489 (11th Cir.1983)). In other words, “if there is a view of the case which makes the jury's answers consistent, the court must adopt that view and enter judgment accordingly.” *Id.* (quoting *Griffin v. Matherne*, 471 F.2d 911, 915 (5th Cir.1973)). The court, however, cannot “strain to reconcile an inconsistency when it is not reasonable to do so.” *Id.* (citing *Burger King*, 710 F.2d at 1489).

[5] After a careful review of the pleadings, the evidence, the arguments made at trial, the jury instructions, and the jury's answers on the special verdict, the Court *1385 finds that the jury verdict is consistent. The jury found that Plaintiff worked overtime, but based on the evidence presented at trial, Plaintiff failed to carry her burden of proving any damages. The testimony of Mrs. Ronquillo and the Plaintiff, Mrs. Beltran Moya, was not in conflict in that although Plaintiff had worked some days overtime, she had been given time to go to the doc-

tor for medical appointments during her pregnancy, time to go home to care for her child during work hours and paid in excess of her normal due amounts. The two women testified to a friendly cooperative relationship where the two cooperated completely to help each other “get the work done and help each other during their mutual pregnancies.” Both were honest, believable, likeable witnesses. The verdict reflects this belief by finding Plaintiff did work overtime; but had been compensated with kindness and fairly treated by her employer. The jury obviously believed the testimony of both parties and came to a good, Solomon-esque decision. The jury found that Plaintiff had failed to satisfy her burden of proof on damages and was not owed any overtime.

This finding is not inconsistent; rather, it is a verdict for the Defendants. Answering “yes” to Question # 1 does not indicate a verdict for the Plaintiff, it simply refers the jury to Question # 2. However, answering “no” to Question # 2 *does indicate* a verdict for the Defendants. The jury form explicitly states that “if you answered ‘No’ to this question, your verdict is for the Defendants.” The jury's answers therefore are not inconsistent.

Finally, the jury questions, drafted by Plaintiff, explicitly allowed for this outcome. After the jury made a determination that Plaintiff worked more than 40 hours in a single work week, the jury was not asked to determine how much was owed to Plaintiff for this work; rather, the jury was then asked whether Plaintiff was entitled to damages at all. Plaintiff therefore understood that a jury could reach this verdict; answer “yes” to Question # 1 and “no” to Question # 2. It belies logic for Plaintiff to include a question and then assert that the only acceptable answer to that question is “yes.” Thus, the Court finds the jury's verdict logical and not inconsistent.

Accordingly, the Court having carefully considered the parties' motions and legal authorities and being otherwise fully advised, it is **ORDERED, ADJUDGED, and DECREED** as fol-

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lows:

1. Defendants' Motion for Entry of Final Judgment (**DE # 62**) be, and the same is hereby, **GRANTED** by separate Order.
2. Plaintiff's Alternative Motion for New Trial (**DE # 73**) be, and the same is hereby, **DENIED**.

S.D.Fla.,2010.
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