

U. S. DEPARTMENT OF LABOR
WAGE AND HOUR DIVISION
Washington

GEORGIA FIRM HELD IN CONTEMPT FOR IGNORING WAGE-HOUR INJUNCTION

The benefits and purposes of the Fair Labor Standards Act cannot be set aside by device and subterfuge, according to Judge E. Marvin Underwood, of the United States District Court for the Northern District of Georgia, holding the North Georgia Manufacturing Company, makers of pants and overalls, and Robert L. Etheridge, its president and secretary, to be in contempt of court in violating the provisions of an injunction issued September 12, 1939.

Judge Underwood's opinion in the contempt case was received today by the Wage and Hour Division from George A. Downing, acting regional attorney of Region VII in Atlanta. The contempt action was brought by Colonel Philip B. Fleming after failure of the company to comply with the terms of a consent decree signed by Judge Underwood last September.

The decree the company is held to have violated required the company to make payments of restitution to 70 employees in the total sum of \$2,067.00 and thereafter to pay the minimum wage of 30 cents an hour as required by the Act. The Company was to pay an initial installment of \$200 on back wages immediately and \$150.00 a week thereafter until all restitutions were made. The installments, by agreement of the parties, however, was later reduced to \$75 a week. The company was further ordered to keep accurate and correct records of hours worked by each employee.

Only the initial payment was made, according to the evidence in the contempt case, and then employees receiving portions of it were required by the company to "kick back" what they had received by indorsing their checks and handing them back to Mr. Etheridge.

Judge Underwood characterized as "puerile and too transparent to deceive anyone" the company's formula for arriving at the number of hours worked on the

basis of piecework prices and the company's claim that "long hours" of waiting for work were not working hours.

In his opinion, Judge Underwood said, in part:

"It is clear that the defendants have wilfully violated the provisions of said decree relating to the first payment of restitution, which was in fact; in most instances, recovered back by defendants; and also that they have wilfully violated said decree in failing to keep accurate books, as required by the act, showing the actual number of hours worked by their employees, resulting in employees getting less than the minimum wage. The pretense of bookkeeping with respect to the hours of labor, merely set forth the results of computations made by each employee, respectively, of the theoretical number of hours worked, arrived at by dividing the piece price by the minimum hour rate, and had no relation to the number of hours such employees actually worked.

"The pretense and artifice of the defendants, both with respect to recovering back from their employees, under the guise of freewill offerings, the amounts of restitution paid under the decree of this court, and also with respect to their claims that employees, though remaining in the factory long hours, were really not employed a great part of the time and were free to utilize such time as they saw fit, are puerile and too transparent to deceive anyone.

"The benefits and purposes of the Fair Labor Standards Act can not be set aside by any such devices and subterfuges as this record shows were attempted in this case.

"I therefore find that defendants have knowingly and wilfully violated said provisions of the injunction and that penalties should be imposed therefor."

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