



MANCHEL BRENNAN

COUNSELLORS AT LAW

EMPLOYMENT LAW ALERT (APRIL 12, 2022)

MASSACHUSETTS SUPREME JUDICIAL COURT REQUIRES TREBLE DAMAGES FOR LATE WAGE PAYMENTS

The Massachusetts Supreme Judicial Court ruled last week that employers that are late with a paycheck must pay treble damages on the entire amount of the late payment. This decision underscores the importance of making wage payments on time as required by the Massachusetts Wage Act.

Beth Reuter, a former employee of the City of Methuen, was owed \$8,952.15 in accrued vacation pay upon her termination. The City was required under the Wage Act to pay that amount on the day Ms. Reuter was terminated, but it did not make the payment until three weeks later, in a subsequent payroll. After receiving a demand from Ms. Reuter's attorney, the City paid her an additional \$185.42 in interest.

Ms. Reuter then filed a claim under the Wage Act for treble damages on the *total amount of the vacation pay* plus interest and attorneys' fees. The case was eventually heard by the Supreme Judicial Court, which rejected the prior interpretation of many Massachusetts courts that the only damages employees suffer when their wages are paid late is interest on the untimely payment. Instead, the SJC sided with Ms. Reuter, and held that late payment of wages entitles the employee to treble damages on the full amount that was late. The SJC recognized that its decision may put employers in a "difficult position when immediately terminating employees for misconduct," but cautioned, "if you choose to terminate an employee you must be prepared to pay him or her in full when you do so." The SJC suggested that employers could potentially avoid this harsh result by suspending, rather than terminating, the employee until the final paycheck is ready.

As a result of the SJC's decision, the City's late payment of less than \$9,000 cost it more than *ten times* that amount, on top of its own defense costs: \$17,904.30 in damages (three times the vacation pay minus the amount paid late); plus statutory 12 percent interest; plus Ms. Reuter's own attorney's fees (roughly \$75,000). Given these significant penalties, employers should review their payroll and termination practices to ensure that they consistently pay employees in Massachusetts on time, as required by the Massachusetts Wage Act.

IN OTHER NEWS:

- Massachusetts recently announced that the funds available for Massachusetts COVID-19 Emergency Paid Sick Leave were exhausted on March 15, 2022. Therefore, employers are no longer required to provide this type of leave to employees in Massachusetts.
- Last month, the federal "Ending Forced Arbitration of Sexual Assault and Sexual Harassment Act" was enacted. Mandatory arbitration agreements or joint action waivers must now be amended to exclude the types of sexual assault and sexual harassment claims identified in the Act.

Please feel free to contact us if we can be of any assistance with these or other issues.

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