LEGAL UPDATES

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Massachusetts Court Awards Trebling of Late Wage Payments as Damages under Wage Act

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Many state wage-and-hour laws require that employers adhere to strict time requirements regarding payment of compensation owed upon termination, but the Massachusetts high court recently took that to another level. In a recent decision, the Massachusetts Supreme Judicial Court, unanimously departed from Massachusetts law when it held in the decision *Reuter v. City of Methuen* (*Reuter*) that an employer was liable to a terminated employee for three times the amount of delayed vacation pay that was paid before the employee filed a lawsuit for wage payments due. Prior to the *Reuter* decision, Massachusetts courts uniformly awarded as liquidated damages treble the amount of **interest** on late wages paid before the filing of a complaint. The ruling places a heavy burden on employers to ensure that employees who are involuntarily terminated are paid **all** wages and compensation owed on the date of termination.

The Massachusetts Wage Act

The Massachusetts Wage Act provides that "any employee discharged from such employment shall be paid in full on the day of his discharge." The Act further defines wages to include "any holiday or vacation payments due an employee under oral or written agreement." With regard to remedies, the Act provides that an employee may initiate a civil action against an employer who violates the Act and pursue claims:

for injunctive relief, for any damages incurred, and for any lost wages and other benefits.... An employee ... who prevails in such action shall be awarded treble damages as liquidated damages, for any lost wages and other benefits and shall also be awarded the costs of litigation and reasonable attorney fees.

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The facts and procedural history

In *Reuter*, the plaintiff was terminated after being convicted for larceny. The employer paid the plaintiff accrued wages for hours worked on the day of her discharge. Approximately three weeks after termination—but before plaintiff filed a claim for the vacation pay under the Act—the employer paid the vacation pay due plus a trebling of the interest payable on the delayed payment of the vacation pay in the amount of $185.42.

The plaintiff subsequently filed suit under the Act for failure to pay vacation pay on the date of termination. Although the plaintiff's claim was for a trebling of the delayed vacation pay, the trial court also awarded plaintiff attorney fees and the trebled 12% interest for the three-week delay in receiving vacation pay. Both parties appealed, and the Massachusetts Supreme Judicial Court transferred the appeal to the Court on its own motion.

The Massachusetts Supreme Judicial Court's decision

The Court held that an employer who fails to pay employees who are involuntarily terminated all wage payments due on the date of termination is strictly liable for liquidated damages equal to treble the amount of wages payments due, as opposed to treble the amount of interest due on the wages owed. According to the Court, nothing in the text supports the interpretation that the liquidated damage provision refers to trebling of interest on the amount owed as the proper remedy for late wage payments. Prompt payment of wages to involuntarily terminated employees permits wage earners to pay for necessities while securing replacement income. The Court stated that awarding only trebling of interest was "inconsistent with the fundamental purpose of the Act."

The Court's holding rejects prior law established by the 2003 trial court decision, *Dobin v. CIOview Corp*. (*Dobin*), which limited trebling of damages to interest on the wages if the employer paid the outstanding wages before an employee asserted a legal claim and filed a complaint. The Court found no support for the prior interpretation announced in *Dobin* and clarified that employers are liable for treble damages on the amount of late paid wages without regard to when the payments are made in relation to filing a lawsuit.

The Court also stated that the plaintiff was entitled to attorney fees but remanded to the trial court the issue of determining the amount of attorney fees owed.

What you need to know

The Court's decision clearly advises employers that if they "choose to terminate an employee," the employer "must be prepared to pay him or her in full" at the time of termination. Consequently, an employer who seeks to terminate an employee for cause or without cause (in either case, an involuntary termination) must either be prepared to pay all wage payments due under the Act on the

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day of termination or delay the termination by suspending or placing the employee on leave until the employer is able to fully compensate the employee for all wage payments owed. Any delays in payment will result in severe penalties for which the employer is strictly liable.

Contact us

If you have questions regarding wage-and-hour issues, contact Robert Blaisdell, Tracey O'Brien or your Husch Blackwell attorney.

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