

The Massachusetts High Court Holds That Employers Are Now Automatically Liable For Treble Wage Damages for Any Untimely Paid Final Wages

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The Massachusetts Supreme Judicial Court (“SJC”) – Massachusetts’ highest court – recently held that under the Massachusetts Wage Act (“Wage Act”) employees are entitled to automatic treble wage damages – that is, three times the amount of the unpaid wages –for any late wage payments, *even if the employer fixed the payment error before the employee commenced a proceeding*. This ruling marks a deviation from prior Wage Act interpretations, which consistently limited damages to treble interest on the delayed wage payment made before the filing of a complaint, rather than treble damages on the full unpaid wage, and makes it more important than ever that employers make timely and complete payment of wages.

In [Reuter v. City of Methuen](#), the employer did not pay out the plaintiff’s accrued vacation time of nearly \$9,000 until three weeks after her termination. After it received a demand letter, the city paid \$185.42 in trebled interest on the delayed payment plus attorneys’ fees consistent with prior case law. After the plaintiff sued, a trial judge entered an order finding that the plaintiff was properly entitled to trebled damages on the delayed payment, in addition to attorney’s fees.

The case eventually made its way to the SJC who rejected the trial judge’s holding that treble interest is the sole remedy for the employee’s untimely final wage payment (along with attorneys’ fees), as “it is unsupported by the language of the statute and inconsistent with its purpose.” Instead, the SJC held that the explicit remedy under the Wage Act “is [] expressly focused on trebling the lost wages and other benefits.” The SJC reasoned, among other things, that despite the Wage Act’s use of the word “lost” creating “some ambiguity,” the “over-all context and purpose” of the Wage Act “is directed at prompt payment of wages,” thus any delay must be remedied by trebling the full amount of the late wages, as well as the Wage Act’s other statutory remedies, e.g., recovery of the employee’s attorney’s fees.

Key Takeaways

The SJC’s decision runs counter to previous court rulings on the issue, which have guided

employment law practitioners for the last twenty years. While it was always a violation of the Wage Act to pay wages late to an involuntarily discharged employee (i.e., fired), this SJC decision now makes clear that any such violation automatically results in damages at least equal to the trebling of the amount of the untimely paid wages – *even if the payment error is remedied quickly*. Therefore, employers MUST ensure that they timely pay ALL wages earned to employees. And this case makes clear that if a Massachusetts employer does not pay an involuntarily terminated employee their final wages – including vacation pay – on the day of the discharge, it is liable under the Wage Act’s draconian remedy scheme. If the employer cannot cut the final wage check on the day it decides to terminate an employee, then the employer should consider other options, such as suspending the employee, likely with pay (depending on the circumstances), to allow time to arrange the final wage payment and comply with the Wage Act. As for voluntary terminations, employers are not required to pay on the day of discharge, but per the Wage Act, must pay the employee in full the following regular pay day. Employers should be proactive in this approach.

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