

New Jersey Wage Theft Act Does Not Apply Retroactively, Per the State Supreme Court

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On May 15, 2024, the New Jersey Supreme Court held in [*Maia v. IEW Construction Group*](#) that both the six-year look-back period and liquidated damages provided by the state Wage Theft Act (WTA) do not apply retroactively.

Notably, the WTA's extended statute of limitations will only apply to conduct that occurred after the WTA's effective date—August 6, 2019. As such, employees filing suit before August 6, 2025 to recover unpaid wages may only recover for conduct occurring after the WTA's effective date even though the relevant time period would not include the full six-year look-back period. Although the look-back period is now six years, if an employee files a lawsuit today, that employee would only be able to recover for conduct dating back to August 6, 2019 (which is a limitations period of less than 5 years). Similarly, employees may only recover liquidated damages—which were not previously available under the state wage and hour laws—for conduct occurring after the WTA's effective date.

For background, the New Jersey Wage and Hour Law (WHL) and the New Jersey Wage Payment Law (WPL) require employers timely pay their employees for all wages earned, including any overtime. In August 2019, New Jersey enacted the WTA, amending the WHL and WPL by adding liquidated damages and extending the statute of limitations from two years to six years. This means that, pursuant to the WTA amendments, employees who file suit seeking to recover unpaid wages may recover any unpaid wages within six years prior to the commencement of such lawsuit (often referred to as the “six-year look-back period”) *plus* liquidated damages up to 200% of the wages owed, together with costs and reasonable attorney's fees.

The question for the state's highest court was whether the six-year look-back period would apply to a lawsuit filed within six-years after the WTA amendments were enacted. In *Maia*, two laborers for a construction company filed a putative class action claiming that the construction company violated WHL and WPL by failing to pay them and the putative class for pre- and post-shift work. Notably, the action was filed on April 13, 2022 (approximately two and a half years after the WTA amendments took effect), whereby the plaintiffs sought to recover unpaid wages for the entire six-year look-back period.

The construction company, however, argued that the putative class members cannot recover damages related to alleged unpaid wages occurring prior to August 6, 2019—when the WTA

amendments took effect. The trial court sided with the construction company in determining that the WTA amendments do not apply retroactively. This was ultimately reversed by the state Appellate Division, reasoning that the WTA amendments did not provide additional remedies, additional rights, or create a new cause of action under WHL and WPL.

On appeal, the New Jersey Supreme Court reinstated the trial court's order in holding that the WTA amendments do not apply retroactively. The court explained that the effective date language included in the WTA amendments—"shall take effect immediately"—signals a prospective application, in which the employees and the putative class members cannot recover damages for alleged unpaid wages prior to August 6, 2019.

Ultimately, the *Maia* decision limits an employer's potential exposure to unpaid wage claims under WHL and WPL—albeit, only in the short-term for suits filed before August 6, 2025.

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