

Second Circuit Provides Lifeline to Employers Facing WTPA Claims in Federal Court

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In *Guthrie v. Rainbow Fencing Inc.*, 113 F.4th 300 (2d Cir. 2024), the Second Circuit weighed in on a brewing dispute among New York district courts as to whether (and how) a plaintiff's allegations may establish Article III standing to pursue wage notice or wage statement claims under New York's Wage Theft Prevention Act ("WTPA") in federal court.

Basic Requirements of the WTPA

The WTPA requires covered businesses to provide employees with both: (1) a notice, at the time of hiring, outlining their rate of pay, allowances, certain healthcare benefits, among other things; and (2) wage statements, each time wages are paid, describing the calculation of regular and overtime pay, along with other related information regarding pay deductions or allowances.

Even minor compliance errors with these statutory requirements can expose businesses to liability. Recoverable damages for an individual plaintiff's wage notice and wage statement claims are capped at a combined total of \$10,000; however, when asserted on behalf of a large putative class, WTPA damages can potentially eclipse any claims for alleged underpayments, which will create significant potential exposure for businesses.

Disagreement Among New York District Courts

WTPA claims asserted in class action litigation must be filed in federal court.^[1] These claims are often paired with unpaid wage claims pursuant to the Fair Labor Standards Act and the New York Labor law. Yet, for federal courts to maintain jurisdiction over any individual claim, a plaintiff must plausibly allege a sufficient "injury-in-fact" to demonstrate Article III standing. Without Article III standing, a plaintiff cannot pursue their claim in federal court.

In *TransUnion LLC v. Ramirez*, 594 U.S. 413 (2021), the Supreme Court reiterated this "[n]o concrete harm, no standing" principle and "rejected the proposition that a plaintiff automatically satisfies the injury-in-fact requirement whenever a statute grants a person a statutory right and purports to authorize that person to sue to vindicate that right." However, in applying *TransUnion* to

WTPA claims, New York courts have expressed various opinions with respect to what degree of “harm” is required to satisfy Article III standing.

Some courts found “concrete harm” in the technical violation of the statute itself. For those courts, individual injury was “captured in the legislative purpose of the WTPA.” Certain others, however, required greater specificity with respect to the “downstream harm” to have resulted from an alleged WTPA violation, and required plaintiffs allege how they were injured or denied specific benefits based on this alleged statutory breach.

This variability across New York federal district courts left businesses with little guidance on how to evaluate the viability of WTPA claims.

The Second Circuit Provides Much-Needed Clarity in *Guthrie*

In *Guthrie* the Second Circuit resolved this discrepancy by clarifying the requisite pleading standards for a WTPA claim in federal court that would satisfy Article III standing.

Applying *TransUnion*, the Second Circuit explained that a prospective plaintiff “must show some causal connection between the lack of accurate notices and the downstream harm” that allegedly resulted. “Informational injury” is not enough. Nor is a purported breach of the WTPA’s legislative purpose. Potential harm that “could” result from a violation is also insufficient. In other words, an employer’s non-compliance with the WTPA’s wage statement and wage notice requirements will not, in and of itself, establish standing.

Rather, a plaintiff must plausibly allege how the purported statutory violations caused them “downstream harm,” such as a loss of wages or a delay in obtaining full payment of wages. Moreover, and even where such harm is alleged in the pleadings, the question of Article III standing does not end there. As the Second Circuit explained, both this specific harm and the causal connection to the alleged WTPA violation must be proven in discovery and at all successive stages of the litigation. Failure to do so will subject these claims to dismissal.

What Does This Mean for Businesses?

First and foremost, *Guthrie* should serve as another reminder for companies that employ workers in New York to confirm that all employees receive wage notices and pay statements that are in compliance with NYLL sections 195(1) and (3). Compliance with these statutory requirements will reduce the viability of any such claims (on an individual or class-wide basis), and, post-*Guthrie*, make it more difficult for prospective plaintiffs to allege a sufficient “concrete injury” that relates to any purported WTPA breach.

Further, if faced with WTPA claims in federal court, companies and their counsel should carefully consider the specific allegations regarding the source of the purported WTPA violation, the harm alleged by the plaintiff, and how such harm was purportedly connected to these notice violations. Post-*Guthrie*, a failure to specifically allege – and later prove – any of these requirements will make WTPA claims vulnerable to early dismissal.

ENDNOTES:

[1] Claims for WTPA violations provide relief in the form of a penalty. They may not be asserted in class actions filed in New York State courts pursuant to New York Civil Practice Law and Rule

Section 901(b), which states that claims for relief based solely in a penalty may not be asserted on a class-wide basis. As such, when plaintiffs seek to pursue WTPA claims on behalf of a class, they must file such claims in federal district court.

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