Client Alert: Massachusetts Employers Are Strictly Liable for Treble Damages for Late Wage Payments

BY RAYMOND M. RIPPLE AND TIMOTHY P. VAN DYCK • APRIL 7, 2022

On April 4, 2022, in *Reuter v. City of Methuen*, the Massachusetts Supreme Judicial Court held that employers are strictly liable for treble damages on late wage payments even when an employee has not yet filed suit asserting a wage claim. This decision is significant because it addresses a "gray area" in Massachusetts law that employers often relied upon to address pre-suit late wage payments by paying any unpaid amounts in full with trebled interest. The *Reuter* decision resolves that unsettled area of the law and makes clear that employers are strictly liable for late wage payments and must pay treble damages on the unpaid wages. Employers cannot simply pay trebled interest on the unpaid wages.

BACKGROUND

The city of Methuen terminated the employment of Reuter for misconduct after she was convicted of larceny. At the time the city terminated her employment, it failed to pay Reuter her accrued vacation time in the amount of $8,952.15. The city ultimately paid Reuter for her accrued vacation time approximately three weeks later. Reuter's counsel sent the city a demand letter for $23,872.40, which included a trebling of the late vacation pay and attorney's fees. Recognizing that it failed to timely pay Reuter for the accrued vacation time, the city sent her a check for an additional $185.42, which represented trebled interest for the time period between the termination of Reuter's employment and the date the city paid the accrued vacation time.

Reuter filed suit in Superior Court asserting a claim for the failure to pay her vacation pay on the day of her discharge as required by the Massachusetts Wage Act, G.L. c. 149, § 148. Following a bench trial, the trial court issued an order holding that, in addition to a payment of attorney's fees, Reuter was only entitled to treble damages on the interest representing the three-week delay in receiving her vacation pay, and that this amount had previously been paid by the city. Reuter appealed the trial court's decision contending that she was entitled to treble damages on the unpaid wages and not simply treble damages on the interest.

THE SJC'S ANALYSIS

At the outset, the court noted that, despite the employer's pre-suit payment of Reuter's unpaid, accrued vacation time and trebled interest, late payments constitute clear violations of the Massachusetts Wage Act. Focusing on the text of the statute, the court emphasized that the Massachusetts Wage Act makes clear that "an employee discharged from such employment shall be paid in full on the day of his discharge," and that the statute clearly defines "wages" to include "any holiday or vacation payments due to an employee under an oral or written agreement." The court found that those phrases, when read together, establish that a terminated employee is entitled to all accrued vacation benefits on the day of discharge. The court also discussed the importance of treble damages in the context of the Massachusetts Wage Act, including how such damages are designed to protect workers from the harsh consequences

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of unpaid wages.

The court rejected the theory that an employer can avoid liability for treble damages on unpaid wages by simply paying the unpaid wages and trebled interest on those unpaid wages. The court held that "the statute leaves no wiggle room" and that "the remedy is also explicit." Any failure to pay wages, including accrued vacation pay, at the time of discharge subjects the employer to treble damages on those unpaid wages. Notably, the SJC recognized that its holding can put employers in a difficult position when immediately terminating an employee for misconduct because it might be unclear how much the employee must be paid on short notice. However, even after recognizing that reality, the court noted that the policy goal of the statute – prompt payment to the employee – did not allow for any alternative approach.

PRACTICAL IMPLICATIONS FOR EMPLOYERS

The *Reuter* decision holds that employers face potentially significant liability if they do not timely and fully comply with the Massachusetts Wage Act. Under the Massachusetts Wage Act, employers have a duty to pay an employee all wages due (including unused vacation time) on the day of discharge from employment. An employer who fails to comply with this statutory requirement, regardless of the reason for the failure, subjects itself to strict liability for treble damages on the unpaid wages. Before discharging an employee, employers should take steps to have the employee's final payroll, including any accrued vacation time, ready for payment on the date of discharge. In cases of employee misconduct where immediate discharge of the employee is necessary and adequate time is not available to calculate the amount owed to the employee, employers should consider suspending the employee with pay until steps can be taken to ensure compliance with the Massachusetts Wage Act. In *Reuter*, the court highlighted this approach as an option for employers trying to balance compliance with the requirements of the Massachusetts Wage Act and the immediate need to discharge an employee.

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