

Massachusetts Wage Update: SJC Overturns Years of Precedent and Finds That Employers Must Automatically Pay Triple Damages if Wages are Paid Even One Day Late

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It is well known that if a Massachusetts employer terminates an employee, the employer risks being liable for three times the amount of wages owed if payment is not made on the last day of employment. A lesser known corollary to this rule based upon Massachusetts caselaw was that the employer could avoid the imposition of treble damages if payment of the outstanding wages was made prior to the employee filing a lawsuit. However, on April 4, 2022, the Massachusetts Supreme Judicial Court (SJC) effectively overruled these prior decisions, holding in the case of *Reuter v. City of Methuen* that paying the outstanding wages before the employee files suit *does not* save the employer from what is now the absolutely automatic penalty of treble damages.

Background

The Massachusetts Wage Act (Act) requires that all departing employees be paid for owed wages, including accrued vacation, at the conclusion of employment. Employees who voluntarily terminate employment must be paid on the next regular payday. In contrast, employees who are discharged by the employer must be “paid in full on the day of discharge.” This requirement that payment of wages be made on the last day of employment applies regardless of whether the employer terminates the employee with or without cause. As the Court in *Reuter* stated, “[t]he statute leaves no wiggle room.” The remedy for a late payment of wages is also strict, as the Act requires that the employee “*shall* be awarded treble damages...”. Again, there is no wiggle room in the law. It does not matter if the employee was fired for stealing or due to no fault of their own, and it does not matter if the employer’s failure to make payment on the last day was intentional or just a mistake. If payment is not made on time, the employer owes triple the outstanding wage, plus interest, costs, and reasonable attorneys’ fees.

One saving grace for employers had been that lower courts consistently insulated the employer from liability for treble damages as long as the employer paid the owed wages prior to the time the employee filed a complaint in court (some might go so far as to argue that the employer just had to pay the wage before receiving notice of the complaint). Lower courts were also clear that “filing a complaint” meant filing a lawsuit in court. This distinction was important because while employees have a private right of action to file such a claim, the employee must first go through the essentially ministerial process of sending a letter to the Attorney General’s office, notifying the AG of their claim, and seeking permission to file the lawsuit. While permission is generally automatically granted, lower courts ruled that the AG filing is not a “complaint” for purposes of the Act, and that treble damages only kicked in when the actual lawsuit is filed in court.

If the wages are paid before the complaint is filed, there are wage damages. The employee could still file a lawsuit, but damages would be limited to the interest accrued on the wages (between the last day of employment and the payment date) plus attorneys’ fees. Given the comparatively small sums at stake in such a situation, lawsuits were rare.

Reuter Changes the Law

That has all changed with the SJC’s decision in *Reuter*, where the SJC essentially says the opposite, and that if the wages owed are not paid on the last day of employment, treble damages are automatically owed. Period.

End of story. So, if, for example, \$2,000 is owed on the last day of employment and, due to simple mistake on the part of the employer, the terminated employee does not receive their \$2,000 check until 1 day later, the employer now owes another \$4,000. There is no defense. And a judge has absolutely no authority to lessen the amount owed based on the circumstances.

Reuter Details

Reuter worked for the City of Methuen. In February of 2013 (yes, this case is almost 10 years old...), she was convicted of larceny. In March of 2013, she was terminated. Reuter contested her termination before the Civil Service Commission and the Superior Court, which affirmed the validity of her termination. At the time of her termination, Reuter was owed approximately \$9,000 in accrued vacation. The City made payment three weeks later. After waiting for over a year, Reuter then demanded triple damages due to the City's failure to pay the accrued vacation on her last day of employment. In response, the City took the position that no treble damages were owed on the wages since no lawsuit was filed and the amounts owed had long been paid. The City conceded that Reuter was entitled to interest for the three week delay, and sent her a check for \$185, representing 12% interest on the wage payment that was made three weeks too late, trebled. Reuter then filed suit seeking treble damages for her delayed wages, plus attorneys' fees.

After a bench trial in 2019, the Superior Court found in favor of the City as to the wage claim, but awarded Reuter over \$75,000 in attorneys' fees. Both parties appealed (Reuter appealed the wage decision and the City appealed the attorneys' fee award) and the matter was transferred to the SJC for a final decision.

The SJC first made clear that accrued vacation pay is "wages" under the Act and therefore it must be paid to the terminated employee on the last day of employment. The Court went on to explain the rationale behind the acknowledged harsh result of having to pay treble damages for even a mistaken late payment of one day.

Quoting from other decisions, the SJC recognized that "*prompt payment of all wages is necessary for employees who often live paycheck to paycheck*" and that "*a late-paid worker can face consequences so detrimental to maintenance of the minimum standard of living necessary for health, efficiency and general well-being ...that [treble] damages must be made ... to insure restoration of the worker to that minimum standard of well-being*". The Court concluded that "[b]ecause of the severe financial consequences of even a minor violation, the act not only protects wage earners from the long-term detention of wages by unscrupulous employers...but also imposes strict liability on employers, who must suffer the consequences of violating the statute regardless of intent."

Partridge Snow & Hahn attorneys [Alicia Samolis](#), and [Michael Gamboli](#) of the [Employment & Labor Practice Group](#) are ready to answer any questions about this recent decision. For additional information and resources visit the firm's website at www.psh.com.

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