

CLIENT ALERT: SJC Holds Employers Liable for Full Amount of Treble Damages When Wages Are Paid Late

On April 4, 2022, the Supreme Judicial Court issued its opinion in [*Reuter v. City of Methuen, SJC-13121*](#), holding that where an employer fails to pay a terminated employee wages on the “day of discharge” as required by the Wage Act, G.L. c. 149, § 148, the employer becomes liable for the trebled amount of the unpaid wages immediately thereafter. These damages result even if the wages are paid at a later date prior to any lawsuit being initiated. This decision is contrary to some lower court guidance that had indicated that the proper measure of damages for laid paid wages was treble the amount of interest for the time between the date of termination and the date the wages were ultimately paid.

In *Reuter*, the plaintiff worked as a custodian for the City of Methuen’s school department until she was terminated in 2013. The City failed to pay plaintiff her accrued, unused vacation in the amount of \$8,952.15 on the date of her termination, but later paid her this amount approximately three weeks later. In response to the employee’s subsequent demand for three times the amount of the unpaid vacation, the City then tendered the employee a check in the amount of \$185.42, which represented three times the interest on the plaintiff’s vacation pay for the three-week period in which she had not been paid. After a hearing, the Superior Court held this was the proper measure of Plaintiff’s damages and also awarded her approximately \$75,000 in attorneys’ fees.

The SJC reversed, finding that the Wage Act “make[s] clear that a terminated employee is entitled to all accrued vacation benefits on the day of discharge.” Highlighting that the Wage Act is intended to protect employees, the SJC stated the Wage Act was clear that employees “shall be paid in full on the day of [their] discharge,” including any accrued, unused vacation pay. The SJC held this requirement includes any and all late payments under the Wage Act, even when quickly remedied, as any delays could have severe consequences for employees, the same as any other unpaid wages. Essentially, employers “should bear the cost of such delay and mistakes [of late

payments], whether honest or not.” Recognizing that employers may sometimes have to make quick decisions in the face of misconduct, the SJC noted that in such a situation the employer still had control over the termination date and could suspend employees accused of misconduct prior to termination in order to give the employer time to comply with the strict requirements of the Wage Act.

This decision underscores the importance for Massachusetts employers to comply strictly with the Wage Act when terminating employees, including ensuring that any and all unpaid wages are correctly and timely paid on the date of discharge. Employers who fail to do so will be strictly liable for three times the amount of the unpaid wages and the employee’s attorneys’ fees. Employers are encouraged to contact their MBJ attorney with any questions about this decision.

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