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SJC Declares That The Massachusetts Wage Act Does Not Require Courts to Award Treble Damages Upon Violation

Court Also Clarifies Managers' Individual Liability Under the Wage Act

In a significant decision for Massachusetts employers, the Supreme Judicial Court held in *Corrie Wiedmann v. The Bradford Group, Inc.* (7/2105), that the Massachusetts Wage Act, G.L.c. 149, § 148 does not *require* that courts automatically award treble damages to an aggrieved plaintiff when it finds that the employer has violated the Act.

The case involved a dispute about the calculation of Wiedemann's commissions after she resigned her position as a recruiter. The Superior Court judge presiding in the case had granted Wiedemann summary judgment on her commission claim and awarded her treble damages because the judge thought such damages were required upon a violation of the Wage Act. The judge also held the company president, the office manager who "ran the company," and the general manager of the office personally liable for the payment of the commissions.

Treble Damages

A principal issue in the case was whether the Court was required to award the plaintiff treble damages. This has been a hotly contested issue in Massachusetts, and several Superior Court judges had previously ruled that the Wage Act required an award of treble damages. The SJC disagreed, ruling that because the statute provides that an aggrieved employee "may...institute and prosecute...a civil action for injunctive relief and any damages incurred, including treble damages for any loss of wages and other benefits...", the use of the word "may" made the award of treble damages *permissive* rather than *mandatory*. In short, the award of treble damages is up to the trial judge, and the SJC remanded the case to the Superior Court to determine whether treble damages are warranted. The Court noted that in a similar case under c. 151 § 1B, it held that treble damages are "punitive in nature."

The *Wiedmann* decision is significant because it puts to rest the controversy over whether treble damages are inevitable if an employer loses a Wage Act case. Employers can now make more informed decisions about whether to litigate or settle wage claims, recognizing that if a court finds their actions to be, in the SJC's words, "outrageous," they may face treble damages.

Personal Liability

In another significant aspect of this decision, the Court expressly ruled that the general manager, who managed the entire office, was *not* an officer of the company within the meaning of the Wage Act, which imposes personal liability on the president and treasurer of a company, and "...any officers or agents having the management of such corporation..." The Court held that there was *insufficient evidence to determine that the office manager had the "management" of the corporation as a whole, and thus he could not be held individually liable under the Wage Act.* The Court ruled that to be personally liable under the statute, a manager "...is someone who controls, directs, and participates to a substantial degree in formulating and determining policy of a corporation." Merely managing a branch, division or office does not, by itself, mean that the individual has management of the corporation as a whole. The Court's holding about personal liability provides useful guidance to employers about which individuals within a corporation may be held personally liable under the Wage Act.

For the full text of the *Wiedmann* decision, [click here](#).



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