

Management Alert



Statute Of Limitations On Wage Claims Tolled While Plaintiff Pursues Labor Commissioner Remedies

The California Code of Civil Procedure establishes time limits within which various civil actions must be commenced. Whereas actions based on statutory liabilities generally must be commenced within three years, actions for penalties need be commenced within only one year. On August 28, 2013, in *Bain v. Tax Reducers, Inc.*, the California Court of Appeal held that the statute of limitations for statutory wage claims could be suspended (“equitably tolled”) while a plaintiff pursued his administrative claim before the Labor Commissioner.

The Facts

Plaintiff Harold Bain worked for Defendant Tax Reducers, Inc. (“TRI”) as an independent contractor accountant. Bain resigned from TRI on February 18, 2005, after TRI allegedly failed to pay him for seven weeks of work and failed to reimburse him for accrued business expenses.

Proceedings Before the Labor Commissioner

On March 1, 2005, Bain filed a claim for unpaid wages, waiting time penalties, and expenses with the Labor Commissioner, alleging that he was misclassified as an independent contractor. Following a hearing, the Labor Commissioner found for Bain and served its decision and order on the parties on April 21, 2006, awarding Bain \$15,000 in wages, interest, and penalties.

First Superior Court Action (TRI’s Appeal of Labor Commissioner’s Decision)

On May 5, 2006, TRI appealed the Labor Commissioner’s decision to the Superior Court. In July 2006, the parties agreed to settle shortly before the matter went to trial, but were unable to agree to all of the settlement terms. After settlement failed, the case was re-set for trial in December 2006, but the parties settled the case on the first day of trial. TRI agreed to make two payments—one to Bain and one to his attorney—by January 31, 2007.

Second Superior Court Action (Bain’s Action to Obtain Monies Owed)

On May 7, 2008, more than three years after his claims accrued on February 18, 2005, Bain filed a second action in the Superior Court to enforce the settlement agreement. He also sued for breach of contract based on the settlement, for money had and received, conversion of bond money, and to recover wages based on Labor Code violations.

In relevant part, the court held that Bain's statutory wage claims—which are governed by a three-year limitations period—were not barred because Bain's claim accrued when TRI had agreed to pay wages on January 31, 2007, as part of the parties' December 2006 settlement agreement. Alternatively, the court held that Bain's claims were equitably tolled because he had consistently pursued his remedies in multiple forums to try to resolve the issues, and TRI was not prejudiced by the delay. The trial court awarded Bain just over \$25,000. Both sides appealed.

The Appellate Court Opinion

The Court of Appeal agreed with the trial court and held that Bain's statutory wage claims were not barred by the three-year statute of limitations because they were equitably tolled. Bain's claims accrued on February 18, 2005, at the time of his resignation. He had two concurrent remedies to recover his unpaid wages: he could seek judicial relief by filing a civil action, or he could seek administrative relief by filing a wage claim with the Labor Commissioner. Bain pursued administrative relief and filed his claim with the Labor Commissioner two weeks after his claims accrued, on March 1, 2005.

The Court observed that the equitable tolling rule suspends the running of the limitations period through the date on which the decision in the first action becomes final. The first Superior Court action (TRI's appeal of the Labor Commissioner's decision) became final on April 9, 2007. Bain filed the complaint at issue on appeal on May 7, 2008, within three years of the date that the first Superior Court action became final. Thus, the court concluded that Bain's statutory wage claims were timely.

However, the Court held that Bain's claims for penalties under Labor Code Section 1194.2 for TRI's failure to pay him the statutory minimum wage, which is subject to a one-year statute of limitations, was barred since he filed his complaint more than one year after the decision in the first action became final.

What *Bain* Means For Employers

Even if a plaintiff does not need to seek administrative relief before the Labor Commissioner, the Court of Appeal held that equitable tolling may still apply until the first proceeding is final. Thus, an employer cannot assume that the pendency of administrative proceedings will inure to its benefit in terms of later asserting a statute of limitations defense if the employee chooses to file a civil action for statutory wage violations.

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