



SJC Mandates Treble Damages for all Late Payments of Wages – Changes Employers Need to Make Now

April 8, 2022

Seyfarth Shaw LLP

“Seyfarth” refers to Seyfarth Shaw LLP (an Illinois limited liability partnership).
©2022 Seyfarth Shaw LLP. All rights reserved. Private and Confidential





Legal Disclaimer

This presentation has been prepared by Seyfarth Shaw LLP for informational purposes only. The material discussed during this webinar should not be construed as legal advice or a legal opinion on any specific facts or circumstances. The content is intended for general information purposes only, and you are urged to consult a lawyer concerning your own situation and any specific legal questions you may have.

Seyfarth Shaw LLP

"Seyfarth" refers to Seyfarth Shaw LLP (an Illinois limited liability partnership).

©2022 Seyfarth Shaw LLP. All rights reserved. Private and Confidential

Joining You Today



Barry Miller
Partner
Boston
bmiller@seyfarth.com



Molly C. Mooney
Associate
Boston
mmooney@seyfarth.com

Reuter v. City of Methuen

- Methuen terminated Reuter after she was convicted of larceny
- It paid her accrued and unused vacation time three weeks after her termination (rather than on the day it was due)
- Plaintiff sent a demand letter for treble damages on the late-paid vacation
- Methuen sent Reuter a check for the trebled interest on the delayed payment instead
- Reuter filed suit, and it went to a jury-waived trial. Trial court ruled:
 - Methuen violated the Wage Act
 - Damages were trebled interest on the delayed payment and attorneys fees'

Dobin v. C/Oview Corp.

16 Mass. L. Rptr. 785 (Sup. Ct. 2003) (Gants, J.)

The trial court's decision in *Reuter* was based on longstanding lower court precedent in Massachusetts holding that:

- *where an employer violates the Wage Act, but makes payment before the employee files a complaint, the proper measure of damages is interest on the late payment, trebled (not treble the amount of wages owed)*

Reuter v. City of Methuen (SJC)

- The SJC reversed course and looked to the language of the Wage Act:
 - Employees not paid in full on time can bring a private action “for injunctive relief, for any damages incurred, and for any **lost wages** and other benefits.”
 - SJC: “Lost wages” encompasses all late payments under the Wage Act
 - The employee “shall be awarded **treble damages**, as liquidated damages, for any lost wages and other benefits.”
 - SJC: “The remedy is explicit.”
 - SJC on *Dobin*: There is no language in the Wage Act “in any way suggesting that the payment of interest is the proper remedy for violation of the act.”

Ramifications of *Reuter*

- Potential for substantial liability based on late payments (including those made years ago)
- Strong disincentive to correct of payroll errors
- Complicates the settlement of wage disputes prior to litigation

Strategies for Reducing Exposure

- Analyze payroll processes to minimize potential delays and errors
- Review and revamp commission policies and other incentive pay programs to eliminate ambiguity and ensure prompt payment
- Consider revising termination protocols to ensure final wages are calculated and paid correctly

What's Next?

- Potential for consequential damages
 - Justice Georges' concurrence:
 - I write separately to point out that, despite language in the court's opinion that may suggest that the court . . . has decided whether employees suing for, and receiving, damages for "lost wages and other benefits" may not also sue for "any damages incurred," the court has not done so in this case. . . . I read G. L. c. 149, § 150, to permit employees to seek two separate forms of relief, based both on the language used in the statute and on the clear legislative purpose of the Wage Act, which fully supports this reading.
- Pending wage theft legislation

**thank you for
attending**