

One Minute Memo®



If Pain, Yes Gain — Part XV: Court Rejects Pittsburgh Paid Sick Days Act

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On December 21, 2015, Judge Joseph James of the Allegheny County Court of Common Pleas overturned Pittsburgh's Paid Sick Days Act ("PSDA"), agreeing with the Pennsylvania Restaurant and Lodging Association and several local businesses ("the plaintiffs") that the City exceeded its authority in passing the law. As a result, the Court declared the PSDA "invalid and unenforceable."

The City of Pittsburgh has the right to appeal the ruling, although it currently is unclear if it will exercise this right. Judge James' full decision granting the plaintiffs' motion for judgment on the pleadings and rejecting the PSDA can be found [here](#).

The PSDA was enacted in August 2015 and was originally scheduled to go into effect on January 11, 2016. However, responding to the plaintiff's motion for a preliminary injunction, in November 2015 the Court stayed the PSDA and [extended its effective date](#) to March 11, 2016.

Following application of the stay, the parties filed motions for judgment on the pleadings. The plaintiffs argued, and Judge James agreed, that the PSDA violates the state's Home Rule Charter, thereby invalidating the PSDA. Because Pittsburgh is a home rule charter municipality, state law prohibits it from enacting ordinances that "determine duties, responsibilities or requirements placed upon businesses, occupations and employers . . . except as expressly provided by statutes which are applicable in every part of [Pennsylvania] or which are applicable to all municipalities or to a class or classes of municipalities." In finding that the Home Rule Charter prohibits the PSDA, Judge James' decision points to a 2009 case where the Supreme Court of Pennsylvania found that Pittsburgh's attempts to make a law governing displaced contract workers violated the Home Rule Charter by improperly placing an affirmative burden on contractors.

The December 21st decision comes in contrast to a similar lawsuit from earlier this year challenging the constitutionality of the Trenton, NJ paid sick leave law. In April 2015, the challenge to the Trenton law was dismissed and the law has been in effect since that time. For more information on the challenge to the Trenton paid sick leave law, see our earlier post [here](#).

If Judge Jacob's decision is overturned, the PSDA would require employers with 15 or more employees to provide each eligible employee with one hour of paid sick time for every 35 hours the employee works in Pittsburgh, up to 40 hours (i.e., five days) of paid sick leave per year. Employers with fewer than 15 employees would be required to provide their employees with one hour of unpaid sick leave for every 35 hours worked in Pittsburgh, up to 24 hours (i.e., three days) of unpaid sick leave per year. After the law's first anniversary, employers with fewer than 15 employees would be required to provide paid

sick leave at the same accrual rate and up to the same 24-hour cap as set forth during the law's inaugural year. For more information on the PSDA's potential requirements, see our previous posting [here](#).

While Pittsburgh businesses may have received the holiday gift they asked for, it remains to be seen whether the City will appeal the decision to a higher court. Stay tuned for any updates on sick leave in Steel Town.

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Seyfarth Shaw LLP One Minute Memo® | January 5, 2016

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