

Massachusetts High Court: Employees Can't Reap Commonwealth's Wage Act Protections Solely for FLSA Violations

April 18, 2022

On April 14, 2022, the [Massachusetts Supreme Judicial Court held](#) that employees seeking to recover damages solely for violations of the federal overtime law are precluded from alternatively pursuing remedies under the notoriously strict Massachusetts Wage Act. The holding brings clarity to the interplay between the Fair Labor Standards Act (FLSA) and the Massachusetts Wage Act.

In *Devaney v. Zucchini Gold, LLC*, three plaintiffs who worked at a restaurant alleged violations of the FLSA for failure to pay overtime wages, violations of the Massachusetts Wage Act for failure to pay the FLSA overtime wages in a timely manner, and violations of the federal and state minimum wage laws. The plaintiffs did not assert violation of the Massachusetts Wage Act for failure to pay overtime because, unlike the FLSA, the Massachusetts Wage Act exempts restaurant workers from its purview. Thus, the plaintiffs sought to hold their employer liable under the Massachusetts Wage Act for late payment of overtime wages required only by the FLSA. At the trial court, the plaintiffs recovered treble damages and attorney's fees and costs under the Massachusetts Wage Act for the FLSA overtime claims.

On appeal, the Supreme Judicial Court remanded for recalculation of damages, despite the "host" of case law under which plaintiffs have brought state law and FLSA claims for the same wage violations. Associate Justice Dalila A. Wendlandt reasoned that the remedial scheme of the FLSA, which provides for the **possibility** of double damages, conflicts with the remedial scheme of the Massachusetts Wage Act, which **mandates** treble damages and reasonable attorney's fees. The federal and state laws further conflict with respect to the statute of limitations: Under the FLSA, employees generally can bring claims for two years after a wage claim arises, while under the Massachusetts Wage Act, employees can generally bring claims for three years after the belated payment. Thus, to avoid preemption, the Supreme Judicial Court concluded that a plaintiff seeking to recover payment for overtime solely based on the FLSA is not also privy to the more severe remedial scheme of the Massachusetts Wage Act.

The Supreme Judicial Court also took issue with the trial court's calculation of damages for the FLSA claim. The FLSA provides for overtime at the rate of one and one-half times the regular rate of pay. The trial court, however, calculated damages by multiplying the regular rate of pay by one and one-half without accounting for the regular rate of pay already received by the plaintiffs. The Supreme Judicial Court confirmed that the FLSA's multiplier should only be applied after accounting for amounts already paid in connection with the regular rate of pay.

This decision brings clarity to the relationship between the Massachusetts Wage Act and the FLSA. The Supreme Judicial Court's holding also takes treble damages off the table for employers whose employees are otherwise exempt from the commonwealth's strict overtime laws.

Please contact the Cooley employment team if you have questions about this ruling.

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