
Recent Massachusetts Case Allows Employers to Obtain Release for Wage Act Claims

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The Massachusetts Supreme Judicial Court recently issued a significant decision allowing employers to obtain an employee's release of Massachusetts wage and hour claims as part of a severance agreement. In *Crocker v. Townsend Oil Company, Inc.* ("Crocker"), the Massachusetts high court held that an employee may release claims under the Massachusetts Wage Act ("MWA") in a severance agreement if the release language meets certain criteria established by the Court.

In *Crocker*, two oil delivery drivers brought suit against Townsend Oil Company claiming that they had been incorrectly classified as independent contractors rather than employees while performing services for Townsend. Accordingly, the plaintiffs alleged that they were owed a substantial amount of unpaid wages and overtime under the MWA. In addition to denying that the plaintiffs were misclassified, the defendant company Townsend argued that the plaintiffs had waived their MWA claims by executing a general release of claims as part of each plaintiff's severance agreement with the company.

Despite the MWA's statutory language providing that no person "shall by a special contract or by any other means exempt himself" from the MWA, the Court held that, in certain circumstances, an employee may be able to release his or her MWA claims to further the strong public policy favoring the enforceability of general releases. As a result, Massachusetts employers can now limit their exposure to state-based claims for unpaid wages, including overtime, and also for failure to promptly pay wages. The Court's holding is particularly significant given that an employer found liable for violating the MWA is subject to "treble" or triple damages, as well as attorneys' fees and costs.

In order for a post-employment release of MWA claims to be considered valid, the *Crocker* court ruled that it must be stated in "clear and unmistakable terms." Specifically, "the release must be plainly worded and understandable to the average individual, and it must specifically refer to the rights and claims under the Wage Act that the employee is waiving." Unfortunately for Townsend, the Court determined that the defendant's general release was insufficient to constitute a release of the plaintiffs' MWA claims because they were not clearly identified.

Despite the utility of the Court's ruling in *Crocker* allowing employees to release MWA claims in a

severance agreement, employers must be aware that federal wage and hour claims, governed by the Fair Labor Standards Act, cannot be released in a severance agreement without a court's involvement and approval. Still, we encourage employers to modify their severance agreements to take advantage of this new, favorable ruling regarding the release of MWA claims. The WilmerHale Labor and Employment Group is ready to assist you in this regard.

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