

## Publications

### *Labor and Employment Alert: Mandatory Payroll Debit Cards Violate Pennsylvania Law*

#### Related Attorneys

Allen S. Kinzer

Michael C. Griffaton

#### Related Services

Labor and Employment

**CLIENT ALERT** | 10.26.2016

### UPDATE: Pennsylvania Law Now Permits Payroll Debit Cards

On December 2, 2016 an update to this insight was published. The Pennsylvania General Assembly passed legislation that permits the payments of employees with payroll debit card. To find out more about the changes in the Wage Payment and Collection Law, [click here](#).

### ORIGINAL ALERT:

On October 21, 2016, the Pennsylvania Superior Court held that the mandatory payment of wages by payroll debit card does not satisfy the requirements of the state's Wage Payment and Collection Law (WPCL). Barring a reversal by the Pennsylvania Supreme Court, this means that employers in Pennsylvania may no longer require that employees receive their wages by payroll debit card.

In *Siciliano v. Mueller*, the plaintiffs worked for a McDonald's franchise and were paid solely by payroll debit card. The payroll card imposed various fees for any sort of transaction associated with the card. The plaintiffs sought class certification in state court for violation of the WPCL, which requires that wages "be paid in lawful money of the United States or check." After the court certified a class of 2,380 hourly employees, the franchisee moved for summary judgment, arguing that the payroll debit cards are both "the functional equivalent" of money and a "check" for purposes of the WPCL. The court disagreed and denied summary judgment. At the same time, the court recognized that its decision "is apparently an issue of first impression" and that "reasonable minds can differ" in light of advances in technology and consumer convenience. Given this, the court certified the case for an immediate appeal so that an appellate court can determine whether payroll debit cards fall within the ambit of the WPCL.

The franchisee appealed to the Superior Court, which affirmed the trial court's decision. The Superior Court found the language of the WPCL to be clear: "A debit card is not 'lawful money' and is not a 'check' as contemplated by the drafters of the WPCL." The Court recognized that the General Assembly could not have contemplated payroll debit cards when it drafted the WPLC in 1961. Regardless, payroll debit cards do not meet the plain meaning of those terms. The Court noted that voluntary use of payroll debit cards may be an appropriate method payment. "However, until our General Assembly provides otherwise, the plain language of the WPCL makes clear that the mandatory use of payroll debit cards at issue here, which may subject the user to fees, is not."

The franchisee could appeal this decision to the Pennsylvania Supreme Court, making the ultimate outcome of the issue is somewhat uncertain. For now, though, employers should be wary of mandating the use payroll debit cards. Contact your Vorys lawyer if you have questions about payroll debit cards in states where you have business operations.