

Retention Bonuses Are Not “Wages” under the Massachusetts Wage Act

Labor and Employment Alert

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On October 22, 2025, the Massachusetts Supreme Judicial Court (“SJC”) issued an important decision clarifying the distinction between “wages” which are subject to the protections of the Massachusetts Wage Act and other forms of compensation such as bonuses. In *Nunez v. Syncsort Incorporated, et al.*, the former employee claimed that the employer violated the Wage Act by paying the second half of his retention bonus eight days after his date of termination. Per the Wage Act, all wages must be paid to an involuntarily terminated employee on the date of termination. The question before the court, therefore, was whether the retention bonus was a “wage” or another form of compensation.

The SJC held such bonuses were not “wages” subject to the protections of the Wage Act. Instead, the Court found the bonus to be “a form of additional, contingent compensation outside the ambit of the Wage Act.” Importantly, the Court distinguished retention bonuses from commissions – the only contingent form of compensation expressly recognized in the Act as subject to its protections. Commissions are “wages” for purposes of the Act when they are definitely determined and due and payable to the employee. The Court declined to extend the definition of “wages” to another type of contingent payment, such as retention bonuses.

In her concurrence, Chief Justice Budd emphasized that the retention bonus was “offered in addition to the plaintiff’s regular pay, in exchange for something more than his regular work.” She clarified that the Act “applies to ordinary pay compensating an employee for his or her typical work.” This is a particularly important clarification given that there have been numerous cases in which employees have sought to characterize bonuses as “commissions” protected by the Wage Act.

For more information about this or any other Massachusetts Wage Act issues, please contact R. Victoria Fuller (fullerv@whiteandwilliams.com; 617.748.5223) or Tom Rueter (ruetert@whiteandwilliams.com; 617.748.5210).

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