

## **SJC: Employees Who Settled Wage Act Claims Were Entitled to Award of Attorneys' Fees**

Written by Michael L. Rosen, Christopher Feudo, Christian Garcia

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On February 19, 2019, the Massachusetts Supreme Judicial Court (SJC) adopted an employee-friendly standard for determining whether a plaintiff is entitled to an award of attorneys' fees under the Massachusetts Wage Act where his or her claims are resolved by settlement. In *Ferman v. Sturgis Cleaners, Inc.*, the SJC held that a plaintiff is entitled to an award of attorneys' fees when his or her suit acted as a necessary or important factor in causing the defendant employer to provide a material portion of the relief in the form of a settlement. As such, employers who settle Wage Act claims could still face liability for attorneys' fees if the issue is not resolved as part of the settlement.

*Ferman* stemmed from the claims of two former employees of a dry cleaning business who brought suit against their former employer under the Wage Act, claiming that the employer failed to pay them approximately \$28,000 in regular and overtime wages. The parties agreed to settle the claims for \$20,500, but reserved the issue of the plaintiffs' entitlement to attorneys' fees for court resolution. The Superior Court determined that the plaintiffs were prevailing parties because their lawsuit was a necessary and important factor in causing the defendant to grant a material portion of the relief they requested under the settlement agreement. The defendant appealed, arguing that a plaintiff must obtain judicial approval of the settlement in order to gain prevailing party status.

The SJC affirmed the lower court's decision. It first noted that the SJC had already foreclosed application of the test proposed by the defendant for fee requests under Massachusetts fee-shifting statutes. In addition, it found that fee-shifting statutes in general, and the fee-shifting provision in the Wage Act specifically, have two major purposes: (1) to deter unlawful conduct; and (2) to assure all litigants greater opportunity to obtain legal representation by providing attorneys with incentive to take cases that otherwise would not be financially prudent for them to take. The test adopted by the Superior Court, the SJC ruled, promotes both statutory purposes while at the same time encouraging both parties to an efficient settlement of meritorious claims. Here, the parties settled for approximately 70% of the plaintiff's initial monetary demands, which the SJC determined to be a material portion of the relief sought and thus entitled the plaintiffs to an attorneys' fees award.

*Ferman* presents a cautionary tale to employers who settle Wage Act claims with their employees. Despite the fact that the *Ferman* employers settled its former employees' claims for \$20,500, the SJC affirmed the trial court's order that they owed over \$17,000 more in attorneys' fees. In light of the ruling, it is imperative that employers address the award of any attorneys' fees as part of their Wage Act settlements to avoid the potential for further liability.

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