

Superior Court Judge Rules that Massachusetts Wage Act Applies to Severance Pay

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For years, Massachusetts courts have held that the Massachusetts Wage Act does not cover payments to employees such as bonuses and severance. However, a recent decision of the Massachusetts Superior Court may represent a significant shift in the opposite direction. In *Juergens v. MicroGroup, Inc.*, the Superior Court held that the term “wages” under the Wage Act includes severance pay.

In *Juergens*, the plaintiff alleged that his offer of employment with MicroGroup included a promise of severance equal to six months of pay if he was terminated without cause. The plaintiff accepted that offer and began working in October 2008. In February 2010, the plaintiff was informed that his position was being eliminated. He was not paid any severance after his termination.

The plaintiff sued his former employer, alleging that the company violated the Wage Act when it failed to pay him the promised six months of severance. The employer moved to dismiss the claim, relying upon the Appeals Court’s decision in *Prozinski v. Northeast Real Estate Services, LLC*, in which the Appeals Court expressly held that severance benefits were not wages under the Wage Act. The court denied the motion to dismiss, relying on a recent Supreme Judicial Court holding that the Wage Act should be given a more expansive interpretation. Questioning whether *Prozinski* remains good law, the court concluded that severance pay should be included under a broader definition of the term wages.

Other than taking an expansive view of the Wage Act, the decision in *Juergens* offers little analysis regarding what types of compensation are covered by the statute. Nonetheless, we expect that plaintiffs’ attorneys will argue that the decision heralds the inclusion of bonuses and other compensation under the Wage Act, not just severance. If courts follow *Juergens* and take an expansive view of what constitutes “wages”, then an employer’s failure to pay bonuses or severance will be subject to the full remedies under the Wage Act, including treble damages and attorneys’ fees.