

## CLIENT ALERT: Massachusetts Supreme Judicial Court Expands Individual Liability for Wage Act Claims for LLC Managers

Individual managers of limited liability companies and other corporate entities may be held personally liable for employee wage claims brought under the Massachusetts Weekly Payment of Wages Act, G.L. c. 149, §148 (the “Wage Act”), according to Massachusetts’ highest court. In a unanimous decision the Massachusetts Supreme Judicial Court held that an employee seeking unpaid wages may seek to recover salary and draw from the president and manager of his limited liability company employer.

In *Cook v. Patient EDU, LLC, et al.*, an employee entered into an employment contract with the defendant limited liability company (commonly referred to as an LLC). His lawsuit alleged that he received no salary for the first six months he worked for the company, and that he was paid only a portion of wages due after he left. In addition to unpaid wages, the employee claimed he was owed business and travel expenses. The suit sought back wages for alleged violations of the Wage Act; as has become increasingly common, the employee sued both the company and its president and manager personally.

Massachusetts’ antiquated Wage Act provides, in part, that the “president and treasurer of a corporation, and any officers or agents having the management of the corporation . . . shall be deemed to be the employers of the employees of the corporation” and thus can be liable for violations of the Wage Act. The Act extends liability to any manager who “controls, directs, and participates to a substantial degree in formulating and determining the financial policy of a business entity.” The court, however, liberally interpreted this language to include not just corporations, as the plain language of the law expresses, but also LLCs. The court ruled that the legislature intended to hold individual managers liable for violations of the Wage Act and found sufficient similarity between corporations and LLCs to extend individual coverage to LLC managers.

Massachusetts law imposes limitations on the duration of pay periods, timing of wage payments, and provides generous remedies to employees who are not paid in a timely manner. With this recent ruling, the court has expanded individual liability to management-level employees of LLCs and by implication to other business entities such as partnerships. As a consequence, management-level employees will become likely targets for future Wage Act claims.

Employers should continue to fashion compensation plans to strictly comply with Massachusetts’ unique wage and hour standards. Massachusetts labor laws continue to permit employees to recover automatic triple damages and attorneys’ fees for even inadvertent violations of state wage laws.

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