



Good News from the Washington Supreme Court!

by Rick Kaiser

Two weeks ago, the Washington Supreme Court ruled against four corrections officers who sought damages against their employer under three different wage and hour statutes. [Champagne et al. v. Thurston County](#), No. 79209-7, 2008 Wash. LEXIS 155 (February 14, 2008). Now that spring is almost here, the case serves as a useful tool for some "wage and hour housekeeping."

Reported Facts. Thurston County pays its employees once a month, on the last business day of each month, for the regular wages earned that month. It requires employees who have earned additional compensation such as overtime pay to submit a form to the County by the end of the month for processing. The County then pays the additional pay at the end of the month subsequent to the month in which it is earned.

The plaintiffs alleged that this delayed payment system violated Washington's Minimum Wage Act ("MWA"), Wage Payment Act ("WPA"), and Wage Rebate Act ("WRA").

The MWA. The MWA penalizes employers who fail to pay the statutory minimum wage, which is now \$8.08/hour in Washington. See [Chapter 49.46 RCW](#). The MWA also requires employers to pay overtime wages of at least one and one-half times an employee's regular rate of pay for hours worked in excess of 40 a week. The MWA does not require employers to pay overtime to persons whose position meets the criteria of the so-called "White Collar Exemptions."

In *Champagne*, the plaintiffs asserted the delay was unlawful under a *former* MWA regulation that was in effect when the alleged violations occurred. The regulation required an employer to pay its employees at no longer than monthly intervals. The plaintiffs thus alleged that the County was paying them their overtime pay a month late. The Supreme Court agreed. It held that the County's system was unlawful under this former regulation and thus, the MWA.

(Note: the Court did note that the plaintiffs would not have a claim under the *existing* regulation because it allows for a reasonable delay. See [WAC 296-128-035\(6\)](#). This regulation provides, "An employer shall pay all wages owed to an employee on an established regular pay day at no longer than monthly payment intervals.")

Luckily for the County, the Court also held that an employee cannot bring a claim under the MWA if the employer has actually paid all the wages owed. In this case, the Court noted that the County had, in fact, paid the plaintiffs all the money it owed them. As a result, the Court held the plaintiffs could not bring a claim under the MWA. But, because the County's practice still was unlawful, the door was open for the plaintiffs to bring a claim under the WRA.

The WRA. The WRA penalizes an employer who willfully, and with the intent to deprive the employee of any part of his or her wages, pays an employee a lower wage than the employer is obligated to pay under "any statute, ordinance, or contract." See [RCW 49.52.050](#) (Emphasis added). The WRA also provides that the employee may be entitled to double damages and attorney's fees if he or she establishes a violation of RCW 49.52.050.

In *Champagne*, the plaintiffs alleged that the County's violation of the MWA entitled them to double damages and attorney's fees under the WRA. The Court disagreed. It held that the County did not violate the WRA because there was no evidence it *willfully* denied the plaintiffs wages. Instead, the Court characterized the disagreement as part of a bona fide dispute as to the obligation of payment. Accordingly, the Court left the plaintiffs empty-handed on their WRA claim.

The WPA. The plaintiffs were not through. They alleged the County's practice violated the Wage Payment Act, [Chapter 49.48 RCW](#). The WPA's regulations provide, in part, when an employer may deduct wages from an employee's paycheck. Unfortunately for the plaintiffs, the WPA applies in the context of *termination*. As you might suspect, the Court noted that the County continued to employ all four corrections officers. Accordingly, the Court ruled against them on this claim as well.

How Employers Should React to *Champagne*

Champagne serves as a useful reminder about the creative theories employees will invoke to recover damages under Washington's wage and hour laws, which courts generally interpret in a light most favorable to employees. Employers should review their compensation policies and practices to ensure fair treatment of employees and minimize the risk of litigation, as follows:

- Review payroll practices to ensure pay is at agreed-upon rates of at least minimum wage for all hours worked;
- Review that wages are being paid within the time frames allowed by the MWA;
- Review payroll practices to ensure any deductions from an employee's compensation are lawful.
- Review whether positions are properly classified as exempt/non-exempt;
- Consult counsel before implementing any new wage and hour or payroll practice if in doubt as to compliance with the MWA, WRA, or WPA.

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