

Back wages, liquidated damages awarded after offsets resulted in \$0 for final paycheck

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The Fair Labor Standards Act (FLSA) and the Arizona Minimum Wage Act (AMWA) subject employers to many requirements regarding the payment of wages to nonexempt (typically hourly) employees. Subject to minimum wage and overtime (FLSA only) requirements, an employer may take certain deductions from an employee's wages. In most instances, the deductions are permissible only if they don't bring wages below the applicable minimum wage. Because not all possible wage deductions are spelled out in the FLSA and the AMWA, employers should take care when withholding other deductions from final (or any) paychecks or risk liability for back wages, liquidated damages, and the attorneys' fees incurred by the employee to recover those back wages.

Background

Antonio Martinez was a nonexempt employee of Titan Solar Power for approximately six months. He claims that toward the end of his employment, he worked more than 40 hours in various workweeks, but he didn't receive the time-and-a-half overtime pay required by the FLSA. According to him, after not receiving overtime pay on a few paychecks, he complained to management that he wasn't receiving the correct wages, and later that day he was fired. The net of his final paycheck was \$0 because Titan deducted \$848.90 for "damages" and "tools."

Martinez sued for, among other things, failure to pay overtime and minimum wage. He asked an Arizona federal court to award him back pay, liquidated damages, and attorneys' fees based on the offsets that brought his hourly pay below minimum wage in his final paycheck. Although Titan

admitted it withheld his entire final paycheck, it claims it was permitted to do so because he stole tools when he abandoned his job and due to damage he caused to a company vehicle. Its total claimed damages against him was \$1,792.76 before its deduction to his final paycheck. Although it believed it had a good-faith basis to withhold his entire paycheck, during the litigation it "tendered back to [him] the amount of \$399.55, representing the net minimum wage allegedly due" for his final paycheck. The remaining issue on his minimum wage claim was whether he was entitled to liquidated damages and attorneys' fees.

FLSA minimum wage

Although Titan admitted it failed to pay Martinez minimum wage on his final paycheck, it argued that its withholding was in good faith under the FLSA. If the action was taken in "good faith" such that it wasn't a violation of the FLSA, the court may decline to award or reduce the award of liquidated damages.

In this case, the court noted Titan's offset was for tools and damage to a company vehicle (not "board, lodging, or other facilities") and violated the FLSA. Because the conduct was illegal, the court rejected the company's claim that the offset was made in good faith and granted judgment in Martinez's favor on the FLSA minimum wage claim.

AMWA minimum wage

Martinez filed a separate minimum wage claim under Arizona law. Under the AMWA, an employer that fails to pay the hourly minimum wage is liable for the balance of the unpaid wages, including interest, an additional amount equal to twice the unpaid wages, and attorneys' fees. Titan claims there was a good-faith dispute about the wages

owed based on a claim of debt against Martinez, and thus the offset was permissible under Arizona law.

Again, the court disagreed. Although it acknowledged that Arizona's wage payment laws permit employers to offset wages based on a claimed debt, those statutes are distinct from the AMWA, which offers a separate good-faith defense from the claim of debt defense. The AMWA requires employers to prove their "act or omission was in good faith" and conformed to the applicable state laws. Titan didn't claim it was entitled to the good-faith exception under the Act.

The court awarded Martinez full back minimum wages, liquidated damages in an amount equal to the back minimum wages, interest, and attorneys' fees.

A word to the wise

Employers that believe they have a proper offset against a former employee must take care in structuring repayment of the offset against an employee's wages. If the employee's relationship terminates, employers don't have carte blanche access to deduct all offsets from the final paycheck. Rather, its recourse is to pursue the claims against the former employee in litigation. In situations in which an employer is loaning an employee money, it should have a contingency in the repayment that accounts for an employee's separation from the company, such as a signed promissory note.

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