

Posttermination promises to pay wage can extend limitations period for wage claims

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The statute of limitations for claims made under the Fair Labor Standards Act (FLSA) and the Arizona Minimum Wage Act (AMWA) is two years, but it can be extended to three years if an employee can show the employer willfully violated the laws. The statute of limitations for unpaid wages under the Arizona Wage Act (AWA) is one year, as with other state employment contract claims. Sometimes employers and employees informally discuss resolving wage-related claims before employees take the formal step of filing a lawsuit (in situations in which the claims remain unresolved). In those discussions, be careful to avoid making certain promises you aren't willing to keep. Otherwise, you could potentially extend the period of liability for the wage claims.

Background

Four former employees of a home healthcare company sued the facility and its individual owners and managers, alleging that at some point during their employment the employer began making untimely and incomplete wage payments. In some cases, the facility reissued paychecks that were ultimately dishonored because of insufficient funds.

Following their separation, each employee attempted to resolve the wage claims against the facility. During the postemployment attempts to find a solution, one manager told them numerous times that both he and the facility would pay all wages owed.

When the issues weren't resolved, the employees filed suit. The employer sought dismissal of lawsuit, citing the untimeliness of the claims—their

employment had ended in 2017, but the suit wasn't filed until September 2019.

Minimum wage and overtime claims

The employer sought to have the FLSA and AMWA claims dismissed, alleging the employees failed to adequately specify weeks in which they weren't paid overtime or minimum wage. The court agreed but allowed the employees to amend their complaint to plead their allegations more specifically.

The employer also argued the claims were largely untimely because of the two-year statute of limitations. In addressing the timeliness argument, the court reviewed whether the employees' complaint sufficiently alleged that the employer willfully violated the statutes, thereby extending the statute of limitations to three years. An employer acts willfully when it "either knew or showed reckless disregard for the matter of whether its conduct was prohibited by the statute."

To demonstrate willfulness, the employees alleged the facility, owners, and managers knew the company had an obligation to pay earned wages to each of them, but it didn't pay. They also alleged they received dishonored checks and that one of the managers repeatedly promised to pay the outstanding wages. The court found the allegations were sufficient to show the employer's knowledge that the conduct violated the FLSA and the AMWA and extend the statute of limitations to three years.

Breach of contract and promise to pay wages

The employer sought dismissal of the breach of contract claim as untimely. The employees asserted the claim was timely because the manager had

repeatedly promised to pay wages until February 2018.

The court noted the repeated promises to pay wages extended the one-year statute of limitations to February 2018 (well beyond the termination date of some of the employees). That wasn't sufficient to save the claim, however, because the employees filed the lawsuit in September 2019, more than one year beyond the statute of limitations.

Conclusion

In this case, the employer's repeated promises to pay demonstrated willfulness, resulting in potentially increased liability for the remaining minimum wage and overtime claims. It also had the potential of extending liability under the breach of contract. The only saving grace for the employer was the employees' failure to file within the one-year statute of limitations for breach of an employment contract.

You should take care when making promises to pay employees because your pledges could potentially result in increased exposure.

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