



CAMPUS COUNSEL

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Failure to Pay Overtime Required Under the FLSA Will Expose Institutions to Triple Damages Under The Massachusetts Wage Act

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On October 15, 2015, the Federal District Court of Massachusetts issued a decision in a wage and hour case that has specific implications for private institutions of higher education in Massachusetts. In *Lambirth v. Advanced Auto, Inc. et al.*, the plaintiff, an auto mechanic, brought claims against the defendants for failure to pay him overtime under the Fair Labor Standards Act (FLSA) and for failure to pay all of the wages due to him upon termination as required by the Massachusetts Wage Act (Wage Act).

The defendants argued that a failure to pay the plaintiff overtime as required by the FLSA could not support a claim for non-payment of wages under the Wage Act because the plaintiff was exempt from overtime requirements of the Wage Act pursuant to the “garagemen” exemption. However, the Court ruled that nothing in the language of Wage Act excluded overtime earned under the FLSA from the broad definition of “wages” required to be paid in a timely manner under the Wage Act. As a result, the defendants’ failure to pay plaintiff the overtime due to him under the FLSA upon termination subjected them to liability for damages under the Wage Act, including automatic treble damages and attorney’s fees.

Client Tip: Like the plaintiff, employees of private institutions of higher education in Massachusetts are specifically exempt for the overtime requirements of the Wage Act but are not exempt under the FLSA. This case provides a clear warning that failure to pay any wages due to employees in the time required will support a claim for damages under the Wage Act.