



Release Doesn't Require Explicit 'Wage Act' Cite

News

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Jeff Fritz was quoted in the July 28, 2014 article "Release Doesn't Require Explicit 'Wage Act' Cite" in *Massachusetts Lawyers Weekly*. A U.S. District Court judge has found that an often-cited 2012 Supreme Judicial Court decision does not in fact require employers, as a matter of law, to expressly include the phrase "Massachusetts Wage Act" in a release.

The plaintiff employee in the case at issue had entered into a half-million-dollar severance agreement with defendant TD Bank. He argued that the SJC's Crocker v. Townsend ruling established a hard-and-fast rule mandating that the Massachusetts Wage Act language be included in order for a G.L.c.148, release to be valid.

But Judge Timothy S. Hillman disagreed and held that Crocker instead requires a severance agreement to use "plainly worded and understandable" language putting an employee on notice that he is knowingly giving up the right to file a Wage Act Claim.

Jeff Fritz said contrary to arguments raised by a number of employees post-Crocker, the SJC never intended for there to be a blanket requirement that a release mention the Wage Act by name.

Until now, he added, no court had interpreted Crocker or offered up substantive guidance to practitioners as to its scope. As a result, many employees have wrongly assumed that the decision stands for the proposition that if a release fails to expressly identify the statute, it is unenforceable.

"The conventionable wisdom from Crocker suggested that you needed to specially refer to the statute, but when you read the decision, it actually doesn't say that," Jeff said. "If the court meant that you have to put 'Massachusetts Wage Act' in capital letters, then what's the purpose of having this 'plainly worded and understandable to the average individual' language included in Crocker?"

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