



Massachusetts Supreme Judicial Court Rules Employers Must Pay Terminated Employees For Any Unused Vacation Time

Insights

6.12.09

On June 11, 2009, the Massachusetts Supreme Judicial Court issued a ruling in the case of *Electronic Data Systems v. Attorney General* holding that, under the provisions of the Massachusetts Wage Act (Massachusetts General Laws chapter 149 § 148) employers must compensate any involuntarily discharged employee for unused accrued vacation time. This ruling is consistent with a 1999 advisory issued to all employers by the Massachusetts Attorney General's office.

EDS challenged the 1999 advisory by arguing that because the definition of wages in the Massachusetts Wage Act only includes vacation time that is expressly provided in an oral or written agreement, employers should have the right to limit or restrict payments due upon termination. The Court rejected that argument, deciding instead that the Massachusetts Wage Act requires payment of any unused vacation benefit earned through the date of separation, regardless of the terms of the employer's written vacation policy. The Court held that the Massachusetts Wage Act does not require an employer to offer vacation time to an employee, but if an employer offers vacation time to an employee, the employee must be compensated for the unused portion of vacation time when involuntarily terminated. The Court did not address the question of whether employers must compensate employees who voluntarily end their employment relationship for any unused portion of earned vacation time. Violations of the Massachusetts Wage Act can result in substantial cost to an employer due to the Act's mandatory treble damage penalties and the awarding of attorney's fees. All employers with employees in Massachusetts should review their vacation policies and practices to ensure they are in compliance with this ruling.

This Legal Alert provides an overview of a specific court decision. It is not intended to be, and should not be construed as, legal advice for any particular fact situation.