



New Jersey Wage Law Not Meant To Protect Out-Of-State Employees

Insights

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A federal court recently held that New Jersey's Wage Payment Law (NJWPL) does not extend to employees working outside the state, even if the employer is headquartered there. The April 3 decision in *Ortiz v. Goya Foods, Inc.* from the U.S. District Court for the District of New Jersey is welcome news for those New Jersey-based businesses with multistate operations or those with employees who perform work outside of state lines. It also serves as a good reminder to review your choice-of-law and forum selection clauses in your employment agreements to ensure they perform as you expect.

The Law Focuses On The Employee, Not The Employer

Jose Ortiz was a sales representative who alleged he was misclassified by Goya as an independent contractor. He brought suit alleging violations of the NJWPL against the company – which is headquartered in New Jersey – through a putative class action in New Jersey federal court. But since Ortiz was a Pennsylvania resident, Goya sought dismissal of the NJWPL claim on the grounds that the statute has no extraterritorial application and therefore could not provide relief to Ortiz.

Ortiz asserted that he was a sales representative “at” Goya’s New Jersey headquarters, but conceded that his sales territory was only in Pennsylvania (with the exception of two Maryland-based customers). The court rejected this argument, explaining that the focus of the NJWPL is the location of the employee, not the employer.

The court went on to state that, for example, the NJWPL applies to protect an employee working in New Jersey for a New York corporation. In other words, it does not serve to protect an employee working in Pennsylvania for a New Jersey corporation. Lest there be any doubt, the court stated that, “New Jersey has little to no interest in providing employment protections, including the NJWPL, to individuals outside of New Jersey.” The court pointed out that Pennsylvania has a similar statute, the Pennsylvania Wage Payment and Collection Law, that would provide the plaintiff with similar protections.

Choice-Of-Law And Forum Selection Clauses Are Not Enough

The Broker Agreement between Ortiz and Goya provided both a choice-of-law provision and a forum selection clause pointing to New Jersey. The court swiftly rejected these arguments as insufficient to allow Ortiz to avail himself of the NJWPL. First, the court said, it was not clear whether the wage dispute fell within the scope of the Broker Agreement’s choice-of-law provision. Second, the choice-

of-law provision was limited to interpretation and performance of the Agreement itself, and was much more narrowly drawn than the forum selection portion.

Regardless, the court held that the above provisions did not require further analysis because legal precedent “clearly militates against applying the NJWPL to encompass the claims of individuals who work outside of New Jersey, regardless of the breadth of a contractual choice of law provision.” Ultimately, the court dismissed the NJWPL claim, although it did provide Ortiz the option of amending his lawsuit to bring a similar claim under the relevant Pennsylvania wage statute.

Takeaways

While the court’s holding was consistent with prior holdings, the *Goya* case is an important reminder that plaintiffs cannot choose the statute they may find most favorable for their claims just because their employer operates in that state – certainly in New Jersey. On the contrary, the analysis, at least in New Jersey, centers on where the *plaintiff* operates.

Employers with operations in New Jersey – and across the country – should also consider whether the choice-of-law and forum selection clauses in your employment agreements are appropriately drafted to incorporate the appropriate forum and statutory scheme. This may mitigate the often-hefty cost of litigating these threshold issues before even addressing the substantive allegations.

If you have questions about this decision or its effect upon your business, please contact [the author](#), your Fisher Phillips attorney, or any attorney in [our New Jersey office](#).

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.

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