

Compliance Alert!

When a Bonus Becomes a Wage: A Costly Mistake for MA Employers

Retention bonuses, incentive payments, and other forms of variable compensation are common tools for attracting, rewarding, and retaining employees. However, if these arrangements are not properly structured and documented, employers may inadvertently create liability under the Massachusetts Wage Act.

Because Wage Act violations can result in mandatory treble damages and attorneys' fees, employers should understand when bonus payments may be treated as wages. Two recent Massachusetts court decisions provide important guidance.

Clearly Defined Retention Bonus Not Considered Wages *Nunez v. Syncsort Inc. (Massachusetts SJC, 2025)*

A company offered an employee a \$15,000 retention bonus payable in two installments if he remained employed through specified dates, maintained satisfactory performance, and did not reduce his work schedule.

The employee satisfied the requirements and received both payments. However, the second payment was made eight days after his employment ended in a reduction in force. He argued that the bonus should have been treated as wages and paid on his last day of employment.

The Massachusetts Supreme Judicial Court disagreed, finding that the retention bonus was not wages because payment depended on meeting specific conditions beyond simply performing work. As a result, the delayed payment did not violate the Wage Act.

Key Takeaway: Retention bonuses may not be considered wages when payment depends on clearly defined conditions.

Undefined Bonus Conditions Can Turn a Bonus into Wages

(Pres v. Sensys Gatso USA, Inc., 2026)

An employee's offer letter promised four quarterly bonus payments totaling \$9,000 based on achieving "measured objectives." However, the employer never identified the objectives and never paid the bonuses.

The court found that because the employer failed to establish any actual requirements for earning the bonuses, the payments were no longer contingent and therefore qualified as wages under the Massachusetts Wage Act. The employer was liable for treble damages and attorneys' fees.

Key Takeaway: If bonus payments are intended to be contingent on performance or other requirements, those conditions should be clearly defined and communicated.

Bottom Line

Whether a bonus or incentive payment qualifies as wages under the Massachusetts Wage Act often depends on how the arrangement is structured and documented. Employers should clearly define and communicate bonus eligibility requirements, performance goals, and payment conditions to minimize Wage Act risk.

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