

COLLECTING UNPAID WAGES

One Pennsylvania law which certain Pennsylvania employees may use to assist them in collecting wages and other forms of compensation improperly withheld by their employers is the Wage Payment and Collection Law (“WPCL”). The WPCL only applies to employers who employ persons in Pennsylvania and does not apply to wages or other benefits provided under the Employment Retirement Security Act (“ERISA”) or certain collective bargaining agreements. However, where the WPCL applies, it can be a very effective tool in obtaining payment of wages and other compensation from an employer.

“Employer” is broadly defined by the WPCL to include every person, firm, partnership, association, corporation, receiver or any officer of the same who employs any person in the Commonwealth of Pennsylvania. The WPCL also broadly defines “wages” to include all earnings of an employee, regardless of whether determined on time, task, piece, commission or other method of calculation and also includes fringe benefits or wage supplements whether payable by the employer from his funds or from amounts withheld from the employees’ pay by the employer. Pennsylvania courts have ruled that such items as bonuses earned under a contract, accrued but unpaid vacation time, stock options and even an employee’s equity interest in a corporation provided in exchange for a reduction in his pay all constitute “wages” under the WPCL.

The WPCL also requires an employer to establish regular pay days for payments of wages and to notify employees, either at the time of hiring, or by a posting in the workplace, of the time and place of payment, the rate of pay and the amount of fringe benefits or wage supplements to be paid to the employee, a third party or fund for the benefit of the employee and any change with respect to any of these items prior to the time of any such change.

The WPCL also requires employers to pay employees who have resigned or been terminated all wages earned prior to their termination or resignation within the next regular pay day established by the employer. An employee who feels that his or her employer has failed to pay wages which he or she has earned can file a complaint with the secretary of the Department of Labor and Industry to request an investigation into the reasons for the non-payment.

In addition to seeking an investigation by the Department of Labor, the WPCL permits an employee the right to file a civil action to recover unpaid wages, liquidated damages, equal to 25% of the total amount of wages due, or \$500, whichever is greater, as well as reasonable attorneys fees and costs. As previously noted, the WPCL does not apply to all wages earned by Pennsylvania employees. However, where it does apply, the obligation imposed on employers by the WPCL to pay liquidated damages and counsel fees in addition to the unpaid wages is often a very effective means to obtain payment of improperly unpaid wages.