CLIENT NEWS BRIEF

California Supreme Court Rules That Retirement is a Form of Quitting Under the Labor Code

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The California Supreme Court has ruled that retirement is a form of quitting under the prompt payment protections in California's Labor Code. (*McLean v. State of California* (2016) 1 Cal.5th 615.)

However, this ruling only applies to State of California and private employees, as Labor Code section 220 continues to exempt employees directly employed by any county, incorporated city, town or other municipal corporation.

In *McLean*, a retired California Department of Justice employee sued the state claiming she had not received her final wages within the time period set out in the Labor Code. Labor Code sections 202 and 203 require an employer to make prompt payment of all final wages to an employee who "quits" his or her employment, or else pay extended wages for up to 30 days. Labor Code section 202 states that an employee, not having a written contract for a definite period, is entitled to his or her final wages within 72 hours of quitting employment, or no later than the time of quitting if the employee provides the employer with 72-hour advance notice of his or her intention to quit.

The California Supreme Court was unpersuaded by the state's argument that retirement does not qualify as "quitting" under Labor Code section 202. Instead, the court concluded that California's laws regarding wages, hours and working conditions are to be liberally construed in favor of protecting employees. After looking at the plain language of the Labor Code's prompt payment provisions, the high court unanimously affirmed the Court of Appeal decision in the former employee's favor and held that retirement is a form of quitting, thus entitling the retired employee to statutory penalties of up to 30 days of wages at the same rate they earned prior to quitting.

Secondly, the court held that the retired employee's lawsuit was not subject to dismissal simply because the employee filed it against the state rather than the agency she worked for. In coming to this conclusion, the court highlighted Labor Code section 220's prompt payment exemption for "employees directly employed by any county, incorporated city, or town or other municipal corporation." As supported by the plain language of Labor Code section 220 and subsequent California Courts of Appeal decisions (see *Johnson v. Arvin-Edison Water Storage Dist.* (2009) 174 Cal.App.4th 729; *Division of Labor Law Enforcement v. El Camino Hosp. Dist.* (1970) 8 Cal.App.3d Supp. 30) holding that water districts and hospital districts qualify as "other municipal corporation[s]" for purposes of Labor Code section 220, it is highly likely that public corporations and quasi-municipal corporations such as K-12 school districts, community college districts, county offices of education and other special districts qualify for the exemption.

If you have any questions about the decision or wage issues in general, please contact the authors of this Client News Brief or an attorney at one of our 10 offices located statewide. You can also visit our website, follow us on Facebook or Twitter or download our Client News Brief App.

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