

# New Damages Standard for Connecticut Wage Claims Weighs Against Employers

By David R. Golder

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A new Connecticut standard provides for the award of double damages and attorney's fees to employees who prevail on claims under the state's wage and hour statutes.

[An Act Concerning An Employer's Failure to Pay Wages](#), Senate Bill No. 914, Public Act No. 15-86, mandates that double damages be awarded against an employer who fails to pay minimum or overtime wages due to its employee, unless the employer proves its "good faith belief" that the underpayment of wages was in compliance with the law. The Act became law on October 1, 2015.

The Act replaces and supersedes prior case law in Connecticut. *See, e.g., Sansone v. Clifford*, 219 Conn. 217, 229 (1991). The state Supreme Court in *Sansone* stated, "In an action for wages brought pursuant to General Statutes § 31-72, awards for double damages and attorney's fees are inappropriate in the absence of the trial court's finding of bad faith, arbitrariness or unreasonableness."

## Presumption

The Act replaces the previous standard with a presumption adverse to employers. It provides that an employee who is paid less than the minimum wage or overtime wages due, and prevails in a civil action against his or her employer, *shall* be entitled to recover (1) costs and reasonable attorney's fees and (2) two times the full amount of the minimum wage or overtime wages due, unless the employer establishes good faith.

Employers that establish "good faith" can defeat the Act's double damages presumption.

Prevailing employees, however, still will be entitled to recover their costs and attorney's fees, in addition to the full amount of wages due. In this regard, the Act modifies Connecticut law (General Statutes §§ 31-68 and 31-72) to provide for damages similar to those recoverable under the federal Fair Labor Standards Act.

## Good Faith

The Act does not define "good faith" or specify what employers must do to satisfy this defense standard. Absent the Connecticut legislature's guidance, courts may look to the standard governing the FLSA's good faith defense for direction.

Courts have held the FLSA's good faith defense requires the employer to take steps to ascertain its obligations under the law and then move to comply with them.

Employers should regularly review their policies and practices with employment counsel to ensure they address specific organizational needs effectively and comply with applicable law. Jackson Lewis attorneys are available to answer inquiries regarding this new law and other workplace developments.

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