Agricultural Workers Engaged in "Post-Harvesting Activities" Entitled to Overtime Pay Under State Law, Supreme Judicial Court Holds

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A recent ruling by the Massachusetts Supreme Judicial Court ("SJC") serves as a warning to all agricultural employers about the pitfalls presented by the disparities between state and federal wage and hour laws. On March 15, 2019, the SJC set a narrow rule for which agricultural workers may be exempt from the state's overtime law, G. L. c. 151, § 1A, by concluding that workers engaged in "post-harvesting activities" do not fall within the exemption. In doing so, the court greatly expanded the type of work for which agricultural workers must be compensated at one-and-a-half times their normal rate for hours worked in excess of forty hours per week. The decision likely will have a significant impact on farming operations throughout Massachusetts.

The sixteen plaintiffs worked for a company that grows, harvests, packages, and distributes bean sprouts in a facility that operates year-round. The plaintiffs were not involved in growing or harvesting the sprouts, but rather, in cleaning, inspecting, sorting, weighing, and packaging them after the harvest had occurred. They also cleaned the facility and discarded waste. In carrying out these post-harvesting activities, the plaintiffs regularly worked more than forty hours per week, but were never paid any overtime, evidently because the company believed these workers were exempt under the state and federal overtime statutes.

The SJC concluded that this type of post-harvesting work does not fall within Massachusetts's overtime exemption for workers engaged in "agriculture and farming." G. L. c. 151, § 1A(19). The court reasoned that, because the nearly identical term "agricultural and farm work" in G. L. c. 151, § 2 is narrowly defined to include only "growing and harvesting," post-harvesting activities, like those performed by the plaintiffs, are not included. The court rejected the argument that the exemption was intended to mirror the similar exemption contained in the federal Fair Labor Standards Act ("FLSA") for agricultural workers, 29 U.S.C. § 213(a)(6) & (b)(12)-(13), which defines agricultural work more broadly. 29 U.S.C. § 203(f). Indeed, the court recognized that one of the reasons that the Massachusetts overtime statute was enacted was to extend overtime pay to certain workers who were exempt under the FLSA, and the legislature rejected a proposal to adopt a nearly identical definition.

In addition to the direct impact of the case, this decision should be viewed as an admonition for all agricultural employers whose workers may be overtime eligible or entitled to higher wages. As the court discussed, while the Massachusetts law "is analogous to, and was patterned upon, the overtime provision of the [FLSA]….the two are not identical." Thus, employers must be knowledgeable about the requirements of both statutes, as an employee may be exempt under one, but not the other. Failure to recognize these differences can result in substantial liability, especially in light of the availability of multiple damages and attorneys' fees for unpaid wages.

The decision is Arias-Villano v. Chang & Sons Enterprises, Inc., No. SJC-12548 (Mass. Mar. 15, 2019). If you have questions about whether your workers are entitled to overtime, contact the Legal Food Hub, who can connect you with counsel, at www.legalfoodhub.org