



Ogletree, Deakins, Nash,
Smoak & Stewart, P.C.
National Client Services
191 Peachtree Street, N.E.
Suite 4800
Atlanta, GA 30303
Telephone: 404.881.1300
Facsimile: 404.870.1732
clientservices@odnss.com
www.ogletreedeakins.com

Massachusetts eAuthority

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Court Extends Massachusetts Wage Act Coverage to Out-of-State Employees

by [Diane M. Saunders](#)

In a case of first impression, a Massachusetts Superior Court judge in the Business Litigation Session has ruled that the Massachusetts Wage Act protects out-of-state employees as long as they have sufficient contacts with the Commonwealth. In *Dow v. Casale, et al.*, Superior Court Civil Action No. 10-1343-BLS1, a former sales director, who resided in Florida and worked out of his home in Florida, brought suit against several officers and directors of his former employer, a Massachusetts technology company, claiming that the company owed him in excess of \$100,000 in unpaid commissions and accrued vacation pay. Finding that the Wage Act, "was designed to regulate the actions of Massachusetts employers, regardless of where their employees work," Superior Court Judge Peter Lauriat concluded that the out-of-state employee had sufficient contacts to move forward with his suit seeking unpaid commissions and accrued vacation pay.

Although the sales director worked from his home in Florida, his business cards listed as his contact information the company's Massachusetts address and phone number. All paperwork relating to sales generated by the sales director were sent to and from Massachusetts. The employee had customers in Massachusetts, as well as more than 30 other states, and had traveled to Massachusetts close to a dozen times a year for the past several years of his employment. When he was in Massachusetts for work, he used cubicles in the company's corporate offices. All of these facts, the judge found, established sufficient contacts with the Commonwealth to justify application of the Massachusetts Wage Act to the sales director even though he did not live, or physically work at an office, in Massachusetts.

In the wake of *Dow v. Casale*, Massachusetts employers can no longer simply assume that their out-of-state employees are not covered by the strict requirements of the Massachusetts Wage Act. Where the cost of non-compliance can be high as treble damages are mandatory for violations of the Massachusetts Wage Act, Massachusetts employers should reexamine their pay practices with regard to their out-of-state employees who may be covered by the Act to ensure that they comply with Massachusetts law.

Additional Information

If you have any questions regarding this decision or its impact on your workplace, contact the Ogletree Deakins attorney with whom you normally work or the Client Services Department at 866-287-2576 or via email at clientservices@ogletreedeakins.com.