



Superior Court Rejects Profit-Sharing as a “Commission” Subject to the Wage Act.



On January 31, 2024, in *Mehra v. Boston Globe Media Partners, LLC*, a Massachusetts Superior Court judge held that profits available under a profit-sharing agreement were not “wages” subject to the Massachusetts Wage Act. This case serves as a significant point of reference for both employers and employees navigating the complexities of compensation structures within the purview of the Wage Act.

Case Background and Decision

In 2017, Vinay Mehra was hired by the Globe. In addition to a salary and other incentives, Mehra’s compensation package included a clause that entitled him to 5% of the Globe’s profits above \$5 million following his third year of employment. Notably, the agreement did not render the payment contingent on continued employment at the time due.

Despite Mehra’s successful efforts in making the Globe highly profitable by 2019, a dispute arose over the nature of his profit-sharing incentive, which led to Mehra’s termination in 2020 and a subsequent legal battle. In his lawsuit against the Globe, Mehra argued that his incentive payment under the profit-sharing agreement constituted a “commission” under the Wage Act.

The court rejected this argument, clarifying that Mehra’s direct role in increasing the Globe’s profitability did not transform the profit-sharing arrangement into a commission subject to the Wage Act. Drawing on existing case law, the court clarified that commissions are typically associated with sales-oriented roles, calculated as a percentage of the sales price. The court also noted that profit-sharing, which allocates a share of an employer’s overall profits to an employee, do not align with the statutory definition of a “commission” within the context of the Wage Act. Ultimately, the court concluded that the incentive being tied to profit rather than sales or services foreclosed it being treated as a “commission” and, therefore wage under the Wage Act.

Takeaways for Employers and Employees

This decision underscores the importance of clear and precise language in compensation agreements and suggests that not all forms of profit-related incentives will be treated as commissions for the purposes of the Wage Act.

- For employers, *Mehra* highlights the need for specificity when defining the terms of profit-sharing arrangements, making it clear that eligibility is based on the company’s overall profits or metrics, rather than individual employee performance or revenue targets. For employees, *Mehra* reinforces the importance of ensuring that individual targets are spelled out as such and styled as commissions if they are to be considered wages.

BHPK’s employment group will continue to monitor these developments and is readily available to assist both employers and employees in handling compensation arrangements. ■

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