

McDonald's Mandatory Use of Payroll Cards Violates Pennsylvania's Wage Payment and Collection Law

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Over 2,300 current and former employees of 16 McDonald's franchisee locations in Pennsylvania claim that requiring the use of payroll debit cards to get paid violates the Pennsylvania Wage Payment and Collection Law (WPCL), and a Luzerne County judge on Friday agreed.

Last month, Judge Burke certified a class of 2,380 current and former employees who worked for McDonald's restaurants owned by Carol and Albert Mueller in Pennsylvania. The case sets up a potential recovery of \$1.2 million under the WPCL.

The Plaintiffs allege that they were required to accept their wages exclusively via JPMorgan Chase Payroll Cards, which included activation and withdrawal fees unless they went to specific local bank branches. The Pennsylvania WPCL, enacted in 1961, requires wages to be paid "in lawful money of the United States or check." Noting that the WPCL does not define "lawful money of the United States," Judge Burke relied upon the legal dictionary definitions of "lawful money," "legal tender," and "draft" to conclude that use of the payroll debit cards by the McDonald's franchisees is unlawful.

Although it ruled against the McDonald's franchisees, Judge Burke permitted an immediate appeal of the decision because it is a matter of first impression that affects employers and wage-earners across the state. Defendants intend to pursue an appeal. The Court also invited the Pennsylvania Department of Labor and Industry to express a formal opinion on the matter, noting that such payroll cards were not contemplated when the WPCL was passed and citing "considerations of advancing technology and consumer convenience, as well as the sometimes competing consideration of consumer protection." (The agency had issued a non-binding advisory letter in 2012 that paying employees by debit card would not necessarily violate Pennsylvania law).

At least half of the states allow wages to be paid via payroll cards, and the Pennsylvania legislature introduced a bill last year that would amend the WPCL to allow wages to be paid by payroll cards as long as certain conditions were met. (H.B. 2274, 198th General Assembly, 2014 Session). Among the conditions is providing the employee with the option to be paid by payroll card, direct deposit, or check, with the employee's advance written authorization. On this point, Judge Burke noted that the use of the Payroll Cards was the mandatory and exclusive method by which these McDonald's employees were paid.

Guidance on this important issue from the appellate court and the Department of Labor & Industry will be welcome news to employers and employees, as wage and hour laws struggle to keep pace with technological advances. Until that guidance emerges, however, Pennsylvania employers would be well served to continue to provide employees with options for more traditional payroll modes, at the employees' election.



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