



Attorney's Fees Should Be Included in Calculating Superior Court Monetary Threshold

In *Stonier v. WAC Consulting, Inc., et al.*, a Superior Court judge dismissed plaintiff's Wage Act complaint on the grounds that plaintiff's recovery was likely to be less than the Superior Court \$25,000 threshold (which has since increased to \$50,000). It was uncontested that plaintiff's actual damages were not likely to exceed \$25,000. However, plaintiff also sought to recover statutory attorneys' fees under the Wage Act, which would likely bring her total recovery above the threshold.

On appeal, the Appeals Court held that, where attorneys' fees are authorized by statute, such attorneys' fees should be considered in determining whether a plaintiff has met the jurisdictional amount for Superior Court. The Appeals Court noted that there was a lack of published appellate authority in Massachusetts addressing that question. In reaching this conclusion, the Appeals Court relied on the text of G.L. c. 212, § 3, which refers to "recovery" in general terms. The Appeals Court rejected the defendants' arguments that the word "recovery" meant recovery of damages only and that the exclusion for multiple damages extended to statutory attorneys' fees.

This decision is important for plaintiffs who have sustained only modest monetary harm but seek to bring suit in Superior Court under a statutory scheme that permits recovery of attorneys' fees.

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