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RAZOR
eNewsletter

FROM



**O'Connor
Carnathan &
Mack**

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Payments Under Profit-Sharing Agreement Not Commissions Under Wage Act

Plaintiff Vinay Mehra (“Mehra”), the former President of the Boston Globe (“Globe”), brought suit against the company under the Wage Act (among other claims), seeking to recover money he claimed was owed to him following his termination. When Mehra was hired in 2017, he and the Globe agreed that, in addition to a salary and other incentives, Mehra would be entitled to receive 5% of the Globe’s profits beyond \$5 million. The Globe terminated Mehra in June of 2020 but did not pay him any compensation related to the Globe’s 2020 profits. Mehra alleged that the 2020 profit payment is a non-discretionary commission payment owed under the Wage Act. The Globe argued that the incentive compensation is not a commission under the Act.

The Superior Court (Business Litigation Session) agreed with the Globe and allowed its motion for judgment on the pleadings. The Court stated that “a profit-sharing arrangement or a share of the overall profits generated by development efforts is not a commission covered by the Wage Act.” The Court was not persuaded by Mehra’s argument that his profit-sharing agreement was tied to revenues entirely dependent on him, stating that “Mehra’s compensation agreement, as

alleged, expressly entitled him to a share of the Globe’s profits, not a percentage of revenues he personally generated.” Indeed, Mehra did not work for the Globe for the last six months of 2020 and, therefore, the Globe’s profits for that year “necessarily involved, and were contingent on, the efforts and activities of others.”

About OCM

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