

Second Circuit Prohibits “Double Recovery” of Liquidated Damages Under FLSA and New York Labor Law

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In a case of first impression, the Second Circuit held on April 6, 2018 that liquidated damages may not be awarded for the same course of conduct under both the Fair Labor Standards Act and the New York Labor Law.

In its per curiam opinion in [Rana v. Islam](#), No. 16-3966-cv, the Court of Appeals noted that “[w]hile the wording of the FLSA and NYLL liquidated damages provisions are not identical, there are no meaningful differences.”

Liquidated damages of to 100% of the unpaid wages are available under both statutes (FLSA § 216(b) and NYLL § 198(1-a)). Both laws contain affirmative defenses that can reduce the amount of such damages. Under § 260 of the FLSA, “if the employer shows to the satisfaction of the court that the act or omission giving rise to such action was in good faith and that [it] had reasonable grounds for believing that [its] act or omission was not a violation of the” FLSA, “the court may, in its sound discretion, award no liquidated damages or award any amount thereof not to exceed” the original unpaid wage amount. Under § 198 of the NYLL, liquidated damages are not recoverable if “the employer proves a good faith basis to believe that its underpayment of wages was in compliance with the law.”

After examining both statutes and noting that “[d]ouble recovery is generally disfavored,” the Court of Appeals concluded that “if the New York State Legislature intended to provide multiple recoveries, it would have done so expressly,” and “[w]e therefore interpret the NYLL and FLSA as not allowing duplicative liquidated damages for the same course of conduct.” The Court left to another day whether a plaintiff entitled to liquidated damages under both statutes should receive the larger of such awards.

The decision resolves a split among district courts in the Second Circuit.

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