

# Massachusetts SJC Weighs in on Wage Act Class Actions and Offers of Judgment

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On Friday April 12, 2019, the Massachusetts Supreme Judicial Court confirmed that plaintiffs seeking to bring class actions asserting Massachusetts Wage Act (“Wage Act”) violations must meet the certification standards set by Massachusetts Rule of Civil Procedure 23 (“Rule 23”), and cannot avail themselves of a lower bar to class certification. In *Gammella v. P.F. Chang’s China Bistro, Inc.*, plaintiff Felice Gammella argued that the Commonwealth’s Wage Act (Mass. Gen. L. ch. 149, §§ 148, 150) provides its own standard for class certification, separate and distinct from the more rigorous Rule 23. Siding with the defendant, the SJC held that Wage Act claims must be brought under Rule 23. The Wage Act’s language conferring the right for employees to bring claims individually or on a class basis does not, in itself, provide a lower certification standard. Rather, the court held, the language merely authorizes employees seeking certification to proceed under Rule 23. Accordingly, employees seeking to certify classes asserting Wage Act claims will still have to meet the usual Rule 23 requirements.

Also in front of the SJC was the question of whether a Rule 68 offer of judgment to a single named plaintiff in a potential class action can moot the plaintiff’s claim if the plaintiff both rejected the offer and notified of his intent to appeal a denied class certification motion. Weighing in on the issue for the first time, the SJC joined the majority of courts and held that a plaintiff’s claim would not become moot in that scenario.

The SJC ultimately reversed the superior court’s denial of the plaintiff’s motion for class certification, reversed the grant of the defendant’s motion to dismiss for mootness on the Rule 68 point, and remanded the case for further proceedings.

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