

LABOR AND EMPLOYMENT LAW

INFORMATION MEMO

FEBRUARY 13, 2025

The Frequency of Pay Split Amongst the Courts May Be Remedied by Legislative Fix

Under New York Labor Law Section 191, individuals who fall under the broad definition of “manual worker” must receive their wages weekly. There is currently a split among the courts as to whether manual workers have a private right of action to recover liquidated damages for untimely payments. In *Vega v. CM & Associates Construction Management, LLC*, the First Department held that manual workers who were paid late had a private right of action under Section 198 of New York Labor Law to recover liquidated damages for up to six years of their wages. Conversely, in *Grant v. Global Aircraft Dispatch Inc.*, the Second Department held that Section 198 does not create a private right of action for late payment when the employee is still paid in full.

Despite the lack of clarity in the law as to whether manual workers have a private right of action, there has been a surge in individual and class-action lawsuits that could expose employers to substantial liability, requiring them to pay employees who were already paid in full, albeit not on a weekly basis. Governor Hochul has included legislation in her proposed budget for the 2026 fiscal year to address this issue.

Governor Hochul’s proposed legislation would clarify the damages available to manual workers for untimely payments. First-time violations allow for the recovery of 100% of interest lost due to delayed payments. Second-time violations would allow for the recovery of 300% of the lost interest due to delayed payment. Finally, for all subsequent violations, recovery includes liquidated damages equal to 100% of the total amount of wages due to the employee. This legislation would limit plaintiffs’ recovery of liquidated damages and prevent financial harm to employers who have paid employees the correct amount on a biweekly schedule. If enacted, Section U would take effect 60 days after approval. Similar legislation on how to remedy the frequency of pay controversy was proposed in the 2025 fiscal year budget, but did not pass.

The 2026 budget must be approved by April 1, 2025, and we will continue to provide updates regarding this issue. If you have any questions regarding the effects of this legislation, please contact [Nicholas Jacobson](#), any attorney in Bond’s [labor and employment practice](#) or the attorney at the firm with whom you are regularly in contact.

