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Federal Court Throws Out Lawsuit Seeking to Exempt Unionized Employers From New Massachusetts Earned Sick Time Law

Yesterday, the Federal Court in Boston decided a case filed by two unionized construction contractors and six construction contractor trade groups that sought a ruling that unionized employers in Massachusetts need not comply with Massachusetts' new Earned Sick Time Law. The Court held that the argument that federal labor law preempted the new state law was meritless and warranted summary dismissal. Given pre-existing law, we were not surprised with the decision.

In response to the contractor lawyers' suggestion that there is no space in which federal labor law and the new Massachusetts Earned sick time law can co-exist, Judge Zobel wrote:

"Such space not only exists but is vast and wide. Petitioners have conjured up many hypothetical unionized workers whose pay changes by the hour, making a determination of their "normal hourly rate" under the Earned Sick Time Law a matter of collective bargaining agreement interpretation. But petitioners have not alleged that all or even most unionized workers fall into this category."

Judge Zobel went on to hold that "if petitioners' assumptions about how the Law will be implemented and applied transport us from the factual to the hypothetical, then their scant allegations about the agreements with which it will conflict carry us on to the fantastical." Judge Zobel dismissed as a matter of law all of the petitioners' theories of preemption by federal labor law.

Based on the definitive tone set by Judge Zobel in the decision, it is apparent that this lawsuit was a longshot. Although Judge Zobel has provided petitioners with an opportunity to amend their complaint to try a different claim that the Earned Sick Time Law is preempted by the Employee Retirement Income Security Act ("ERISA"), any such new effort to invalidate the law seems destined to meet the same fate.

If you have any questions as to how best to comply with the Massachusetts Earned Sick Pay

Law, please contact Peter Bennett (pbennett@thebennettlawfirm.com) or Rick Finberg (rfinberg@thebennettlawfirm.com).