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Protecting Your Legal Rights-Final Compensation

by: Joette S. Doran, J.D.

The issue of final compensation must be examined at the end of any employment relationship whether as a result of termination or resignation. Under Illinois law, final compensation is defined under the Illinois Wage Payment and Collection Act (Act). The Act provides that an employer is required to pay "final compensation" at the time of separation, if possible, but in no case later than the next regularly scheduled payday. Final payment includes all "wages" which are defined as any compensation owed an employee pursuant to an employment contract or agreement between the parties. Generally, final compensation includes earned wages, salaries, commissions, severance, bonuses and vacation pay and any other compensation. Under the Act, an "agreement" is broader than a contract and requires only a manifestation of mutual assent on the part of two or more persons. Parties may enter into an "agreement" without the formalities and accompanying legal protections of a contract. The Act provides an employee with remedies more expansive than a common law breach of contract action when it uses the words "employment contract or agreement."

Significant monetary issues of final pay may exist where an employee is entitled to a commission or earned bonus per an agreement or company policy. With regard to earned vacation and bonus pay, where the employee meets the requirements for payment under the company policy or agreement, all earned compensation is required to be paid to the employee even if the employee resigns or is terminated before the effective date of the payment as established by the employer. Moreover, the Act provides that no employment policy shall provide for the forfeiture of earned vacation time upon separation. In order to preserve your rights to final compensation, a careful examination of final compensation issues should be reviewed with legal counsel. A written demand for payment should be made in the amount owed before filing suit. If the company fails to comply, then a complaint may be filed with the Illinois Department of Labor or in state court for the unpaid amounts. Recovery for a violation of the Act includes all unpaid compensation, attorneys' fees and costs. For additional information, please visit our web site at www.joettedoran.com

**This article is not intended as legal advice. You should consult with an attorney for individual advice regarding your own situation.*

MS. DORAN IS LICENSED IN ILLINOIS, ALL ILLINOIS FEDERAL COURTS AND IS A MEMBER OF THE FEDERAL TRIAL BAR. SHE IS THE PAST CHAIRPERSON OF THE EMPLOYMENT LAW COMMITTEE FOR THE NORTHWEST SUBURBAN BAR ASSOCIATION AND IS THE PAST PRESIDENT OF BARRINGTON AREA PROFESSIONAL WOMEN

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