



Liquidated Damages Under the Fair Labor Standards Act and Monetary Penalties Under the Colorado Wage Act are Not Mutually Exclusive

In *Evans v. Thayer*, a case decided on December 10, 2015 by the United States Court of Appeals for the Tenth Circuit, Evans appealed the district court's denial of a liquidated damages award under the Fair Labor Standards Act ("FLSA"). Evans prevailed on his claim for unpaid wages under the FLSA and the Colorado Wage Act ("CWA"); however, the district court concluded that the damages awarded under either act would at least "partially overlap[]." As such, the district court determined it could only award damages under the statute "which provide[d] the greatest relief" as a plaintiff is not entitled to double-recover his or her unpaid wages.

The district court arrived at this conclusion without analyzing the *nature* of the relief afforded under each statute. Evans argued that liquidated damages under the FLSA and monetary penalties under the CWA serve different purposes, the former serve a compensatory function while the latter serve to penalize the employer for failing to properly pay wages. In agreeing with Evans' arguments, the Court of Appeals noted this issue was a matter of first impression in the Tenth Circuit, and after analyzing how this issue has been decided by other district courts, held: "[I]t is permissible for the court to award both FLSA liquidated damages and a CW[]A penalty."

The Tenth Circuit's opinion in *Evans* should produce two immediate results: (1) consternation on the part of employers facing claims for unpaid wages; and (2) an increased incentive for plaintiff-employees to seek relief in federal court for unpaid wages.

Read the full decision here: <http://www.ca10.uscourts.gov/opinions/15/15-1049.pdf>

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