

COURT ISSUES DECISION ON APPLICATION OF NEW MASSACHUSETTS EARNED SICK TIME LAW TO EMPLOYEES GOVERNED BY CBAs

On July 9, U.S. District Court Judge Rya W. Zobel issued a decision that, in essence, upheld the Massachusetts Earned Sick Time Law, which went into effect July 1, 2015, by dismissing a lawsuit asserting that the law was preempted by federal labor law. The lawsuit was filed by two contractors and six trade associations whose members are contractors and asked the Court to declare that the Earned Sick Time Law was preempted by Section 301 of the Labor Management Relations Act ("LMRA"), and that the Earned Sick Time Law therefore does not apply to union employees across the Commonwealth who are governed by collective bargaining agreements ("CBAs").

The Massachusetts Attorney General, Maura Healey, was the defendant in the lawsuit because, by virtue of her position, she is to enforce the law, including by promulgating regulations. Attorney General Healey moved to dismiss the lawsuit on several grounds and Judge Zobel agreed, holding that the federal preemption doctrine did not apply to preclude application of the Earned Sick Time Law to union employees subject to CBAs. In particular, Judge Zobel wrote that enforcement of the Earned Sick Time Law as to union employees governed by CBAs does not require a court to interpret the CBAs in every instance and thereby trigger preemption by the LMRA. In addition, Judge Zobel found that the potential claims of union employees under the Earned Sick Time Law were not so intertwined with the CBAs such that the LMRA preempted application of the Earned Sick Time Law. Last, Judge Zobel held that the LMRA did not preempt the Earned Sick Time Law as the law is applied to the plaintiffs because there is no case or controversy ripe for review, given that the law had only recently gone into effect and plaintiffs' claims were, at best, hypothetical.

Although Judge Zobel did dismiss the lawsuit, she allowed two weeks before the dismissal will enter to afford the plaintiffs the opportunity to amend their Complaint to add new claims. At this time it is not known what course of action the plaintiffs will take in response to this decision, although they may make another effort to add a claim that the Earned Sick Time Law is preempted by the Employee Retirement Income Security Act. For now, employers with employees who are subject to CBAs and work primarily in Massachusetts should track the hours worked by these employees, as these employees are presently considered eligible under the Earned Sick Time Law to earn sick time beginning on the law's July 1, 2015 effective date and to use it as soon as 90 days thereafter.

If you have any questions regarding the above information, please contact an attorney in our Construction Law Group.

If you have any questions about the issues addressed here, or any other matters involving Construction Law issues, please feel free to contact:

Sara P. Bryant
617.457.4048
sbryant@murthalaw.com

Loring A. Cook, III
617.457.4014
lcook@murthalaw.com

Michael J. Donnelly
860.240.6058
mdonnelly@murthalaw.com

David P. Friedman
203.653.5438
dfriedman@murthalaw.com

Maury E. Lederman
617.457.4133
mlederman@murthalaw.com

Monica P. Snyder
617.457.4157
msnyder@murthalaw.com

David R. Sullivan
617.457.4015
drsullivan@murthalaw.com

Andrew G. Wailgum
617.457.4006
awailgum@murthalaw.com

Kevin F. Yetman
617.457.4114
kyetman@murthalaw.com