

**[J-16-2026] [MO: Mundy, J.]
IN THE SUPREME COURT OF PENNSYLVANIA
MIDDLE DISTRICT**

MARCELO AITA,	:	No. 25 MAP 2025
	:	
Appellee	:	Appeal from the Order of Superior
	:	Court at Nos. 510 EDA 2022 and
	:	615 EDA 2022, dated September
v.	:	26, 2024, Affirming the order of
	:	the Bucks County Court of
	:	Common Pleas, Civil Division, at
NCB MANAGEMENT SERVICES, INC.,	:	No. 2019-00981 dated January
	:	21, 2022
Appellant	:	
	:	ARGUED: March 12, 2026

DISSENTING OPINION

JUSTICE WECHT

DECIDED: October 29, 2026

The Wage Payment and Collection Law (“the WPCL” or “the Law”) requires that employers promptly pay all wages owed to employees. The Law instructs employers to “designat[e] in advance” certain “regular paydays,” creating distinct pay periods.¹ Employers are required to pay each employee all wages that the employee earns in a given pay period “within the number of days after the expiration of said pay period as [is] provided in [the employee’s] written contract of employment.”² If no written contract exists—or if it exists but is silent regarding the duration of the payroll period—then the

¹ 43 P.S. § 260.3(a).

² *Id.*

employer must remit the employee's wages either "within the standard time lapse [that is] customary in the trade" or "within 15 days" after the pay period ends.³

The WPCL gives employees whose employers violate these prompt-payment rules a private right of action to recover any unpaid wages.⁴ An employee who does not wish to litigate his or her claim in court "may, in the alternative," seek administrative resolution of that wage claim through the Department of Labor and Industry.⁵

Employers that violate the WPCL by failing to pay wages within the required time frame may be liable for liquidated damages of \$500 or "twenty-five percent (25%) of the total amount of wages due," whichever is greater.⁶ The Law limits the availability of liquidated damages: "the employe[e] shall be entitled to claim" liquidated damages only "[w]here wages remain unpaid for thirty days beyond the regularly scheduled payday."⁷ If no regularly scheduled payday applies, an employee can claim liquidated damages when wages remain unpaid for "sixty days beyond the date of the agreement, award[,] or other act making wages payable."⁸ A claim for liquidated damages will succeed only

³ *Id.*

⁴ *Id.* § 260.9a(a) ("Any employe or group of employes, labor organization or party to whom any type of wages is payable may institute actions provided under this act."); *id.* § 260.9a(b) ("Actions by an employe, labor organization, or party to whom any type of wages is payable to recover unpaid wages and liquidated damages may be maintained in any court of competent jurisdiction[.]").

⁵ *Id.* § 260.9a(c) ("The employe or group of employes, labor organization or party to whom any type of wages is payable may, in the alternative, inform the secretary of the wage claim against an employer or former employer[.]").

⁶ *Id.* § 260.10.

⁷ *Id.*

⁸ *Id.*

when the employer lacks a “good faith contest or dispute” of the wage claim, “including the good faith assertion of a right of set-off or counter-claim.”⁹

As the Majority explains, this appeal concerns whether an employee can pursue a stand-alone claim for liquidated damages under the WPCL against an employer who belatedly paid the employee all arrearages prior to the suit being filed. The employee in this case, Marcelo Aita, was the CEO of debt collection agency NCB Management Services (“NCB”). In late 2014, NCB promised in writing to pay Aita a retention bonus of \$60,000 per month for seventeen months. NCB initially paid Aita the monthly installments as agreed, but then stopped paying the bonus in the summer of 2015, thus breaching the written agreement and violating the WPCL. In 2017, NCB paid Aita all of the past-due bonus installments (plus interest). Nevertheless, Aita sued NCB under the WPCL, seeking liquidated damages for NCB’s statutory violations.

NCB unsuccessfully argued in the lower courts that an employee cannot sue his employer under the WPCL unless he is still owed outstanding wages when he files the lawsuit. NCB’s argument that the WPCL does not permit stand-alone claims for liquidated damages in the absence of a claim for unpaid wages is based upon Subsection 260.9a(a) of the Law. That provision states that “[a]ny employe[e] or group of employe[e]s, labor organization or party to whom any type of wages is payable may institute actions provided under this act.”¹⁰ NCB believes that the phrase “to whom any type of wages is payable” modifies each of the categories that precede it. The company therefore concludes that

⁹ *Id.*

¹⁰ *Id.* § 260.9a(a).

Subsection 260.9a(a) makes “a claim for unpaid wages [a] prerequisite for filing a claim under WPCL.”¹¹

As the Majority explains, NCB’s interpretation of Subsection 260.9a(a) is incorrect. Applying the last antecedent rule, the phrase “to whom any type of wages is payable” should be read to modify only “party” (the final listed category) and not “employee[e],” “group of employee[e]s,” or “labor organization.” Subsection 260.9a(a) therefore gives employees like Aita the right to sue under the WPCL without qualification. As the Majority also notes, NCB’s proposed interpretation makes no sense, because “wages” would never be “payable” to a labor organization. Any lingering doubts about whether the last antecedent rule should apply are alleviated by Subsection 260.9a(b), in which the General Assembly listed the same categories of permissible plaintiffs in a different order, and a “party to whom any type of wages is payable” no longer appears at the end of the list.¹²

Despite correctly rejecting NCB’s flawed interpretation of Subsection 260.9a(b), the Majority nevertheless agrees with the company that workers whose employers pay wages delinquent (in violation of the WPCL) cannot pursue stand-alone claims for liquidated damages whenever the employer has repaid all delinquent wages prior to the filing of suit. The Majority bases this conclusion principally upon Subsection 260.9a(b). But Subsection 260.9a(b) does not say what the Majority claims. Subsection 260.9a(b) merely instructs that “[a]ctions by an employee[e] . . . to recover unpaid wages and

¹¹ Brief for NCB at 17.

¹² 43 P.S. § 260.9a(b) (referring to actions “by such labor organization, *party to whom any type of wages is payable*[,] or any one or more employees for and in behalf of himself or themselves and other employees similarly situated” (emphasis added)).

liquidated damages may be maintained in any court of competent jurisdiction[.]”¹³ From this unremarkable text, the Majority intuits that employees whose employers violate the WPCL have no claim for statutory damages unless their wages remain unpaid up until the filing of the lawsuit.¹⁴

The Majority’s analysis of Subsection 260.9a(b) is spare. The Majority states only that:

[Subsection 260.9a(b)], which defines the scope of WPCL actions, clearly authorizes an action “to recover unpaid wages and liquidated damages.” Giving “recover” its common meaning of “[t]o get back or regain in full or in equivalence . . . [t]o obtain (relief) by judgment or other legal process” shows that the legislature authorized a WPCL action to regain or obtain unpaid wages and liquidated damages. *Recover*, BLACK’S LAW DICTIONARY (12th ed. 2024). Moreover, “unpaid” wages are wages that are “not yet paid” or “outstanding.” *Unpaid*, COLLINS ENGLISH DICTIONARY (digital ed. 2012). Consequently, Section 260.9a(b) plainly authorizes an action to get back, regain, or obtain wages that are not yet paid or outstanding and liquidated damages. By extension, the WPCL does not authorize an action to recover “untimely paid” wages.¹⁵

I struggle to grasp the Majority’s point. After defining the words “recover” and “unpaid”—terms which are not materially in dispute here—the Majority suggests that workers cannot file stand-alone claims for liquidated damages because the WPCL “does not authorize an action to recover ‘untimely paid’ wages.”¹⁶ But that’s an obvious *non sequitur*. Aita is not pursuing a claim for “untimely paid” wages. His claim is one for

¹³ *Id.* § 260.9a(b).

¹⁴ Majority Opinion at 24 (stating that “a WPCL claim must be for wages that the employer has not yet paid at the time the WPCL action is commenced”).

¹⁵ *Id.* at 23 (citation to the WPCL omitted).

¹⁶ *Id.*

liquidated damages under the WPCL, which the Majority properly understands and correctly articulates in other sections of today's decision.¹⁷

In other words, Aita's claim is for liquidated damages, and Subsection 260.9a(b) authorizes actions to obtain liquidated damages. The Majority has failed to supply a coherent rationale for interpreting Subsection 260.9a(b) in a manner that forecloses stand-alone liquidated damages claims.

I suppose there is an argument to be made that the word "and" in Subsection 260.9a(b) should be given its usual conjunctive meaning. In such a case, the provision would only permit actions seeking to obtain *both* unpaid wages *and* liquidated damages. The Majority does not embrace that theory in today's decision. Accepting it would prevent stand-alone claims for unpaid wages too. I do not think anyone believes the General Assembly intended that.¹⁸ Moreover, any argument that Subsection 260.9a(b) authorizes only actions for both unpaid wages and liquidated damages would run headfirst into Subsection 260.9a(e). There, the legislature created a three-year statute of limitations for the cause of action described in Subsection 260.9a(b). That limitations provision describes the action as one "for the collection of unpaid wages **or** liquidated damages."¹⁹

¹⁷ *Id.* at 25 ("Section 260.10 does not authorize a standalone claim for liquidated damages when the employee does not have a claim for unpaid wages."); *id.* at 27 ("[W]e hold Aita's standalone claim for liquidated damages was not permitted as a matter of law.").

¹⁸ See Brief for NCB at 21 ("It must also be emphasized that the statute's liquidated damages provision is available only to a subset of plaintiffs in cases where an employer has no good faith defense to withholding the payment of wages for a set amount of time under the statute.").

¹⁹ 43 P.S. § 260.9a(g) (emphasis added) ("No administrative proceedings or legal action shall be instituted under the provisions of this act for the collection of unpaid wages (continued...)")

The Majority attempts to bootstrap its misinterpretation of Subsection 260.9a(b) by referencing adjacent WPCL provisions. The Majority’s arguments in this regard are unpersuasive. The Majority cites Subsections 260.9a(c) and (e), which detail the alternative administrative review procedures available to employees. Subsection 260.9a(c), for example, states that employees “may, in the alternative, inform the secretary of the wage claim against an employer or former employer.”²⁰ Citing this language—and citing similar references to “unpaid wages” in Subsection 260.9a(e)—the Majority somehow concludes that these provisions elaborating on distinct administrative remedies somehow “confir[m] that WPCL *actions* must be based on unpaid wages.”²¹ They do not. These provisions in no way speak to the scope of the (judicial) cause of action afforded to employees under Subsection 260.9a(b). Whether outstanding unpaid wages are required for an employee to seek administrative relief is neither here nor there.

Put simply, today’s decision hollows out the WPCL’s primary mechanism for ensuring that employers pay their workers on time. It does so based on a strained interpretation of Subsection 260.9a(b) that, despite the Majority’s best efforts, finds no support in the WPCL’s statutory text. I respectfully dissent.

or liquidated damages more than three years after the day on which such wages were due and payable as provided in sections 3 and 5.”).

²⁰ *Id.* § 260.9a(c).

²¹ Majority Opinion at 24 (emphasis added) (“Sections 260.9a(c)-(e), which provide an alternative remedy for aggrieved parties in the form of enlisting the Secretary of Labor and Industry to pursue the ‘wage claim’ against an employer or former employer, confirms [*sic*] that WPCL actions must be based on unpaid wages.”).