

Corporate & Financial Weekly Digest

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Dissatisfied Employees Unable to Recover Penalties from Investors under New York Law

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A New York statute that requires a corporation's largest investors to guarantee employee wage payments does not require such investors to satisfy penalties owed workers under Indiana law.

Employees of Waste Reduction, Inc. sued the bankrupt company for overdue wages and penalties, as permitted under Indiana law, but were unable to recover their award for penalties because of the former firm's limited assets. Waste Reduction was incorporated in New York, however, which requires the 10 largest shareholders of a corporation to guarantee employee wages and benefits. The employees sued Waste Reduction's largest investors, arguing that New York law requires these investors to satisfy the penalties owed workers under Indiana law. The district court dismissed and appeal followed.

The U.S. Court of Appeals for the Seventh Circuit, in a matter of first impression, affirmed the district court's decision. Plaintiffs' claims improperly combined separate statutory directives, as New York law requires investors to satisfy corporate debts for services performed, while Indiana law imposes penalties for belated payments but does not demand that investors guarantee corporate debts. (*Whitely v. Moravec*, 2011 WL 523346 (7th Cir. 2011))

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