



## CLP News

**Melissa R. Murray** has been elected as an officer and member at large of the Massachusetts Council of School Attorneys (MCSA). The Council of School Attorneys is a membership organization whose members work to improve the practice of school law and prevent lawsuits against public schools. Her term begins January 1, 2016.

**Leo J. Peloquin** will be presenting at the Massachusetts Municipal Association (MMA) Annual Meeting & Trade Show on January 22, 2016, educating peers on "Employer Rights In A New Era Of Workplace Monitoring".

**Phil Collins** will also be presenting the "Labor Law Update" at the MMA Annual Meeting on January 22, 2016.

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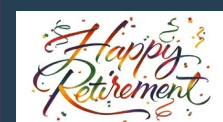
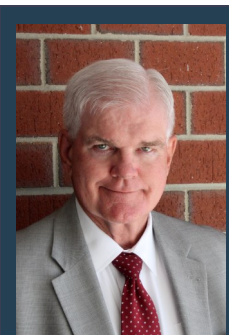
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## **Best Wishes Mike Loughran!**

Please join us in extending best wishes to our friend and colleague Michael C. Loughran, who is retiring from the practice of law. Mike has been a valuable asset and esteemed partner of Collins, Loughran and Peloquin, P.C. for the last twenty-two years.

All of us at CLP are so grateful to have had the benefit of working with Mike. He is a dedicated attorney who always sought a fair and practical solution to resolve labor disputes. His knowledge and expertise on issues of school law and school negotiations has been fundamental to our practice. Mike is a true professional and gentleman whose experience as a teacher, school committee member, parent, and of course attorney, made him a tremendous resource, mentor, friend, and partner of this firm.

While we will truly miss his presence here at CLP, we wish him a lengthy and satisfying retirement.



## **Wage Act's Treble Damages Applies to Overtime**

A Massachusetts federal court has ruled that a failure to pay overtime compensation makes an employer liable under the Massachusetts Wage Act in the same manner---treble damages, attorneys' fees and interest---as the failure to pay regular compensation. In Lambirth v. Advanced Auto, Inc., 2015 WL 6043710 (October 15, 2015) an automotive technician sued the employer after he was fired, claiming that there were many weeks where he worked over 40 hours but did not get time and a half, in violation of the Fair Labor Standards Act. The employer moved to dismiss the Wage Act claim, arguing that M.G.L. c. 151, § 1A, the so-called "Fair Minimum Wage Act" ("FMWA"), which requires employers to pay time and a half for hours worked in excess of forty hours per week, contained an exemption for a "garageman." The Plaintiff's suit did not include a claim under c. 151, § 1A, but the Employer argued that it was not the Legislature's intent under the Wage Act to award treble damages for overtime to a position excluded by the Massachusetts statute.

The Court observed that "wage" is not defined in the Wage Act except to state that the definition includes holiday or vacation payments under an agreement, but that the Black's Law Dictionary definition of "wage" is "[p]ayment for labor or services, usu[ally] based on time worked....Wages include every form of remuneration payable for a given period to an individual for personal services, including salaries, commissions, vacation pay, bonuses...tips, and any similar advantage received from the employer." The Court went on to state that the legislative history of the statute showed an intent to prevent the unreasonable detention of wages and, even if state law exempted the Plaintiff's position from its overtime provisions, federal overtime law did not. Therefore, the Court opined, "[T]here is nothing in the language of the statute or the plain meaning of its terms to suggest that it does not encompass overtime differential to which an employee is entitled under federal law....The above-cited decisions, and a close reading of the Wage Act, lead to the conclusion that the statute applies to the untimely payment of all wages to which an employee is entitled under either state or federal law."



*Happy Holidays from your friends at CLP!*

