

ER

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT DEPARTMENT
CIVIL ACTION NO. _____

_____)
 CRISTINA LOCURTO,)
on her own behalf and for)
all others similarly situated,)

Plaintiff,)

 v.)

 GEICO CORPORATION,)
 and PATRICE L. SIMONELLI,)

Defendants.)
 _____)

CLASS ACTION COMPLAINT AND DEMAND FOR TRIAL BY JURY

I. INTRODUCTION

1. Plaintiff Cristina LoCurto (“Ms. LoCurto” or the “Plaintiff”) brings this class action on her own behalf and for all other similarly situated Massachusetts-based employees of Defendant GEICO Corporation (“GEICO” or the “Company”) against GEICO and Patrice L. Simonelli (“Ms. Simonelli”) (collectively, the “Defendants”) who involuntarily terminated Ms. LoCurto as well as others within the three years prior to filing this action. By policy and practice, GEICO does not pay involuntarily terminated employees all wages due on their last day of work in violation of the Massachusetts Wage Act, M.G.L. c. 149, § 148 (the “Wage Act”). Ms. LoCurto seeks for herself and her similarly situated Massachusetts-based former colleagues, unpaid/late paid wages, statutory treble damages, interest, and attorneys’ fees and costs as provided for by law, among other forms of relief.

II. PARTIES

2. Ms. LoCurto is an adult resident of Manchester, New Hampshire. At all relevant times, GEICO employed her in Massachusetts.

3. GEICO is a Delaware corporation with a principal place of business at 5260 Western Avenue, Washington, DC 20015.

4. Ms. Simonelli is a natural person who GEICO employs as a supervising attorney with authority to approve, audit, or verify payroll for Massachusetts-based employees on its behalf. On information and belief, Ms. Simonelli resides in Massachusetts.

III. JURISDICTION, VENUE AND STATUTORY PREREQUISITES

5. This action arises under M.G.L. c. 149, §§ 148, 150.

6. This Court has original jurisdiction over this matter as it is a civil action in which more than \$50,000 is in controversy.

7. Ms. LoCurto filed a complaint with the Massachusetts Attorney General's Office prior to filing suit.

8. Venue in the Business Litigation Session is proper because this matter concerns complex wage-and-hour issues that affect many GEICO former employees.

IV. STATEMENT OF FACTS

9. GEICO is a property and casualty insurer that operates nationwide, including in Massachusetts.

10. The Company hired Ms. LoCurto in November 2018 as a staff counsel attorney.

11. Ms. LoCurto worked under Ms. Simonelli's supervision in an office in Newton, Massachusetts.

12. From time to time, GEICO involuntarily terminates employees.

13. On March 21, 2023, Ms. Simonelli informed Ms. LoCurto that GEICO had involuntarily terminated her employment, effective immediately.

14. The Wage Act required GEICO to pay Ms. LoCurto all earned wages due on her termination and required Ms. Simonelli to ensure timely payment of these wages.

15. Those wages should have included compensation for all work Ms. LoCurto performed as of her last day at her final rate of pay and all her accrued but unused paid time off (“PTO”).

16. However, Ms. Simonelli failed to ensure timely payment, and GEICO did not pay Ms. LoCurto these wages in full on her last day.

17. Instead, GEICO issued Ms. LoCurto’s final paycheck on March 30, 2023 via direct deposit—nine days after her involuntarily termination.

18. That final paycheck purportedly constituted payment for all work Ms. LoCurto had performed on or before March 21, 2023 during the final period in which she was employed, her PTO, and an unused floating holiday.

19. On information and belief, it is GEICO’s policy and practice to not pay Massachusetts-based employees their full wages (including, without limitation, compensation for all time worked, PTO, and unused floating holidays) on the date of their involuntary termination.

20. Indeed, the GEICO Benefits Checklist issued to Ms. LoCurto states: “You will receive your final pay/accrued time off lump sum payment through direct deposit on the next scheduled payday following your last day of employment except as required by law.””

21. Despite GEICO's disclaimer that alternate laws may affect the need to make more timely payment than the next "scheduled payday," GEICO failed to pay Ms. LoCurto on her day of termination for all earned wages.

V. CLASS ALLEGATIONS

22. On information and belief, Defendants' unlawful failure to timely pay Ms. LoCurto's wages in full—including compensation for all time worked, her PTO, and her unused floating holiday—on the date of her involuntary termination resulted from GEICO's policies and practices.

23. Membership in the proposed Mass. R. Civ. P. 23 class is readily ascertainable because GEICO's records document the number and identity of the class members. To provide them with notice and for other purposes related to this action, the class members' names and addresses are readily available from GEICO. Notice may be provided by any means permissible under Mass. R. Civ. P. 23. This action is properly maintainable as a class action under Mass. R. Civ. P. 23(a)-(b).

24. On information and belief, there are at least 40 class members, if not more, in the relevant time period. Thus, the class members are so numerous that joinder is impracticable, and the parties and the Court will benefit from class-wide disposition of their claims.

25. Ms. LoCurto's claims are typical of those that any individual class member would allege, and the relief she seeks is typical of what each individual class member would seek in separate actions.

26. Defendants subjected all the class members to the same corporate practices alleged herein: failing to timely and fully pay wages to involuntarily terminated employees.

27. Ms. LoCurto and other class members sustained similar losses, injuries, and damages from Defendants' violations of the Massachusetts Wage Act. Defendants' common policies, practices, and patterns of conduct deprived Ms. LoCurto and the class members of timely and complete payment for their labor, injuring them. Although the amount of individual class members' damages may vary, those damages are readily ascertainable from GEICO's financial and employee time records. Consequently, common issues of liability predominate over individualized issues of damages.

28. Ms. LoCurto can fairly and adequately protect the class members' interests, and she has no antagonistic interests and has retained experienced and competent attorneys in employment litigation and class action litigation to represent her.

29. A class action is superior to other available methods for fair and efficient adjudication, particularly in a wage-and-hour litigation matter, like this, where individual class members may lack the financial resources to vigorously litigate against corporate defendants and often hesitate to assert their rights for fear of retaliation. Individual adjudications would result in highly inefficient duplication of discovery, briefing of legal issues, and court proceedings, among other inefficiencies. Moreover, without a collective proceeding, each class member's relatively modest individual damages likely would not warrant separate legal action. Finally, the Court may fashion methods to efficiently manage this action as a class, if appropriate.

30. Common questions of law and fact exist for the class members that predominate over any question that affects only Ms. LoCurto and the class members individually. These questions include whether Defendants timely and fully paid Ms. LoCurto and the other class

members all wages due to them (including earned base pay, PTO, and floating holidays) pursuant to the Wage Act.

31. Ms. LoCurto seeks certification of a class of similarly situated persons terminated from their employment with GEICO in Massachusetts (whether at a GEICO office or at their respective homes in Massachusetts) at any time within the three years before commencement of this action through the time of judgment.

VI. COUNTS OF THE COMPLAINT

COUNT I VIOLATION OF THE MASSACHUSETTS WAGE ACT

32. Ms. LoCurto restates and incorporates each paragraph of this Complaint as if fully stated herein.

33. At all times relevant to the Complaint, Ms. Simonelli exercised control over GEICO's timely and complete payment of wages to its Massachusetts-based employees.

34. Because she exercised control over GEICO's timely and complete payment of wages to Massachusetts-based employees, Ms. Simonelli is liable for its violations of the Wage Act.

35. GEICO's failure to pay former employees in Massachusetts all wages due to them in full—including without limitation earned base pay, PTO, and floating holidays—within the time required by the Wage Act violates M.G.L. c. 149, § 148.

36. Ms. LoCurto brings this claim under M.G.L. c. 149, § 150.

VII. PRAYER FOR RELIEF

WHEREFORE, Ms. LoCurto respectfully requests that this Honorable Court award judgment in her favor for the following relief:

1. certification of Ms. LoCurto and all other similarly situated Massachusetts-based former GEICO employees as a class under Mass. R. Civ. P. 23;
2. an award of damages for all wages and other losses to which Ms. LoCurto and all other similarly situated Massachusetts-based former GEICO employees are entitled;
3. statutory trebling of all wage-related damages;
4. attorney's fees, costs, and interest; and
5. such further relief as deemed appropriate.

VIII. JURY DEMAND

Ms. LoCurto demands a TRIAL BY JURY on all claims so triable.

Respectfully submitted,

Cristina LoCurto, *on her own behalf*
and for all other similarly situated,

By her attorneys,

Dated: January 24, 2023

/s/ Zachary H. Hammond
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ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [GEICO Hit with Class Action for Allegedly Issuing Late Final Payments to Terminated Employees](#)
