

Alert | Labor & Employment



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Colorado Supreme Court Confirms That Two- to Three-Year Statute of Limitations (Not Six Years) Applies to Colorado Minimum Wage Act Claims

The Colorado Supreme Court has rejected an attempt to create a six-year statute of limitations and confirmed that, consistent with the Colorado Wage Claim Act, C.R.S. §§ 8-4-101, *et seq.* (CWCA) and the Fair Labor Standards Act, 29 U.S.C. § 201, *et seq.* (FLSA), a two-year statute of limitations (or three-year, for willful violations) applies to employees filing suit under the Colorado Minimum Wage Act, C.R.S. § 8-6-101, *et seq.* (Minimum Wage Act). *By the Rockies v. Samuel Perez*, No. 25CO56 (Colo. Sept. 15, 2025).

Overview of Statutes of Limitations for Colorado Wage Claims

As background, in Colorado, claims for unpaid wages may be brought under a patchwork of laws with differing statutes of limitations. First, claims for unpaid wages can be brought under the CWCA. The CWCA, by its express statutory terms, is subject to a two- or three-year statute of limitations (actions for willful violations must commence within three years after the cause of action accrues; all other actions must commence within two years). C.R.S. § 8-4-122.

Certain wage claims, such as those for unpaid overtime, misclassification, meal breaks, rest periods, and time worked, accrue under both the CWCA and the Colorado Overtime and Minimum Pay Standards (COMPS) Order. The COMPS Order provides that a complaint may be filed with the responsible state agency (the Colorado Department of Labor & Employment, Division of Labor Standards & Statistics)

within two years (or three if willful) of the alleged violation. However, the COMPS Order is silent with respect to the time for filing such wage claims in court. Finally, the Minimum Wage Act provides that Colorado employees must be paid the applicable minimum wage, among other rights conferred. It, too, is silent as to the statute of limitations. C.R.S. § 8-6-118.

With this backdrop, it has been a point of dispute whether a two- to three-year statute of limitations applies to Minimum Wage Act claims, or whether Colorado's six-year statute of limitations for recovering an unliquidated, determinable amount of money in Colorado's general statute of limitations should apply. C.R.S. § 13-80-103.5(1)(a). Colorado federal courts have, at different times, found that both the six-year statute of limitations and the two- to three-year statute of limitations apply. *Compare Sobolewski v. Boselli & Sons, LLC*, 342 F. Supp. 3d 1178 (D. Colo. 2018), (applying general six-year limitations period applies to Minimum Wage Act claims) with *Balle-Tun v. Zeng & Wong, Inc.*, Civ. A. No. 21-cv-03106, 2022 WL 1521767 (D. Colo. May 13, 2022) (unpublished order) (applying two- to three-year limitations from CWCA to Minimum Wage Act claims).

By the Rockies Decision

On Sept. 15, the Colorado Supreme Court settled the statute of limitations debate, holding that the applicable statute of limitations period for a private cause of action brought under the Minimum Wage Act is two to three years pursuant to C.R.S. § 8-4-122. In so concluding, the Court reversed the Colorado Court of Appeals' 2023 holding in *Perez v. By the Rockies, LLC*, 543 P.3d 1054 (Colo. App. Nov. 16, 2023) applying the six-year limitations period set out in C.R.S. § 13-80-103.5(1)(a).

The Court emphasized that both the CWCA and the Minimum Wage Act are part of a comprehensive statutory scheme addressing the payment and recovery of wages. Because these acts serve the same purpose — allowing for the recovery of unpaid wages — the Court concluded that they should be construed together. Applying the CWCA's more specific limitations period to Minimum Wage Act claims ensures consistency and harmony within the statutory framework, rather than defaulting to the general six-year limitations period for liquidated debts under section 13-80-103.5(1)(a), C.R.S. *By the Rockies*, ¶¶ 22-24.

The Court agreed with Judge Terry Fox's Court of Appeals dissent, finding that Title 8 (which includes both the CWCA and the Minimum Wage Act) is more specifically tailored to employer-employee disputes than the more general provisions of Title 13 (which contains the six-year limitations period the Court of Appeals applied to Minimum Wage Act claims). The Court reasoned that using the CWCA's limitations period avoids illogical and inconsistent results, such as permitting a longer period for minimum wage claims than for other wage claims, which would undermine the legislative intent and the coherence of wage protection laws. *Id.* ¶¶ 23-24, 30.

Additionally, the Court noted that its interpretation aligns Colorado law with the FLSA, which also imposes a two- or three-year statute of limitations for minimum wage and overtime claims. *Id.* ¶¶ 27-28. The Court further supported its decision by referencing the Minimum Wage Order regulations promulgated by the Colorado Department of Labor and Employment, which require employers to retain payroll records for three years, indicating that claims should not reach back further than this period. *Id.* ¶25.

Conclusion

Armed with the *By the Rockies* decision, employers facing potential claims under the Minimum Wage Act may take into account a two- to three-year limitation on liability that aligns with the CWCA, Colorado recordkeeping requirements, and federal law.

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