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## The Cost of Non-Compliance with New Jersey's Earned Sick Leave Law

02/26/26

On January 28, 2026, the New Jersey Superior Court, Appellate Division, issued the first published appellate interpretation of New Jersey's Earned Sick Leave Law ("ESLL"). The key takeaway is that employers must pay attention to their ESLL obligations or they may be in violation of the law and have to pay up.

In *Cano and Bonelli v. County Concrete Corp.*, employees of a supplier of sand, gravel and concrete mix worked at two different locations. The named employees were hourly drivers at a specific worksite. The employer's policies included a qualified PTO policy that was not compliant with the ESLL, the employer did not maintain ESLL records and ESLL notice requirements were not compliant. The employees brought a lawsuit, including on behalf of other "similarly situated employees" and prevailed on partial summary judgment and at trial. Defendant employer appealed. The Appellate Division affirmed the trial court's rulings in favor of the plaintiffs.

### Key Takeaways from the Appellate Division's Decision

- **Failure to post and provide individualized notices** of ESLL rights to employees **is a violation.**
- **Failure to comply with ESLL's recordkeeping requirements**, including maintaining records of employees hours worked and sick leave taken for a 5 year period, **creates a presumption of violation of the ESLL and presumes the employer failed to provide the earned sick leave** required by law, absent clear and convincing evidence otherwise.
- Qualified PTO policies must provide paid leave **for all purposes required by the ESLL** to be compliant with the ESLL.
- Requiring a doctor's note for an illness-related absence, for absences less than 3 days, is inconsistent with the ESLL.
- The ESLL permits "similarly situated employees" to seek relief collectively without the need or requirement to be certified as a class action pre-trial.

As a result of the employer's ESLL violations, the trial court was required to perform calculations to determine individual awards by multiplying their hourly rates by 40 hours for the paid time each was entitled for the years they were employed following the statute's enactment, **plus an additional mandatory statutory 200 percent in liquidated damages. The judgment amount prior to plaintiffs' counsel's application for attorneys' fees was north of \$750,000.**

**Takeaway:** The ESLL requirements and the potential exposure for failure to comply are both significant. In light of the recent decision, employers must undertake a review of their ESLL policies and practices to ensure they are compliant. If you need assistance, please contact the Employment Law Team at WGS.

### Attorney

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### Practice

- Employment Law