

Payment of Wages Through Mandatory Debit Cards

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Some employers have begun to pay employee wages through issuing debit cards, rather than cash, check or direct deposit.

Recently, the Pennsylvania Superior Court addressed a class action challenge by McDonald's employees to the practice of paying wages through a mandatory debit card, and found the same to be in violation of Pennsylvania's Wage Payment and Collection Law. That law requires that "wages be paid in lawful money of the United States or check." The Court held that a debit card is not "lawful money" (i.e. it is not cash) and is not a "check" as contemplated by the drafters of the law.

The employer argued that the debit card was the "functional equivalent" of a check or lawful money, but the Court rejected that argument, noting that the users incurred fees which they would not incur if they received a check or cash. The debit card was not, therefore, the functional equivalent of a check or money.

Thus, based on this case, employers in Pennsylvania may not pay employee wages through mandatory debit cards. However, the Court only dealt with **mandatory** debit cards. The Court did not address whether an employer may use **voluntary** debit cards to pay wages. Thus, it is possible that debit cards can be used to make payroll so long as the employee has a choice of how to be paid and elects payment through a debit card.

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