

# **Attorney General Raoul, Department Of Labor Fight To Protect Workers' Rights To Recover Unpaid Overtime Wages And Penalties**

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CHICAGO - Attorney General Kwame Raoul and the Illinois Department of Labor (IDOL) are urging the Illinois Supreme Court to overturn an appellate court's opinion

barring employees of a Chicago manufacturing company from recovering overtime wages and penalty fees they argue should have been paid. Raoul, along with the IDOL, [filed an amicus brief](#) in Mercado v. S&C Electric Company (S&C) to ensure that the Illinois Minimum Wage Law protects employees' right to earn fair compensation for overtime hours worked, as well as their right to recover lost wages and penalties in court.

“Employees deserve to receive fair wages they have earned from all their hours of work. They also have the right to recover penalties if their employer violates Illinois’ Minimum Wage Law,” Raoul said. “If the appellate court’s opinion is allowed to stand, employers could withhold overtime wages, provide them only on demand, and avoid paying any penalties. I urge the Supreme Court to overturn the appellate court’s opinion. I will continue to advocate for Illinois workers to receive all wages they are owed and to ensure that employers who violate the law to be held accountable.”

“Illinois’ Minimum Wage and Overtime law is intended to ensure that employees are paid in full, on time, and for overtime hours worked,” said Illinois Department of Labor Director Jane Flanagan. “If the Illinois Supreme Court allows the lower court’s ruling to stand in this case, it could undermine the strength of that law and the Illinois Department of Labor’s ability to deter employers from simply underpaying employees and seeing if they can get away with it. We appreciate the leadership of Attorney General Raoul and his team on this brief.”

The lawsuit was filed by factory assembly workers who say that S&C, a Chicago manufacturing company, pays workers in part by offering bonus payments tied to metrics, such as the quality and quantity of their work, in addition to hourly wages. In the lawsuit, the employees allege S&C did not include the bonus payments when calculating their baseline pay rate, meaning that the workers were paid less in overtime than they were owed. Although S&C ultimately paid the back wages, the lawsuit alleges the company did not pay the penalties required by the Minimum Wage Law for unlawful underpayments.

A trial judge dismissed the lawsuit on the ground that, because S&C ultimately paid the employees’ back wages, it was not required to pay any penalties, and the appellate court agreed. The circuit and appellate courts also held that S&C likely would not have needed to include the bonus payments when calculating the baseline rate in the first place.

Raoul and the IDOL argue that the lower courts’ opinions should be reversed, and that employers are not permitted to adopt a “wait and see” approach to paying overtime, offering back wages only when employees threaten lawsuits. Rather, Raoul and the IDOL argue, employers must pay all the overtime owed to employees in a timely manner, or pay the penalties required by law. The brief also argues that employers like

S&C generally must include all employee compensation – not just hourly compensation – when calculating the baseline pay rate. According to Raoul and the IDOL, an employer cannot pay workers in non-hourly wages and then claim the payment is a “gift.”

This brief is the most recent action by Raoul protecting workers rights. In December 2021, Raoul’s office [settled with construction subcontractors](#) building a new production line for Rivian Automotive, Inc. (Rivian) to resolve a joint investigation by the Attorney General’s office and the Illinois Department of Labor. The settlements required the chain of subcontractors to pay nearly \$400,000 in back wages and penalties to resolve allegations that they failed to pay Mexican laborers for overtime worked. In November, Raoul’s office [settled with Colony Display LLC](#) (Colony) that resolves allegations Colony entered into no-poach agreements and engaged in wage fixing with three staffing agencies. The settlement required Colony to pay more than \$1 million to compensate temporary workers who were impacted by the unlawful activity. Today Raoul [filed a consent decree](#) recovering \$3 million in back wages and damages for employees of Elk Grove deli meat processing company Greenridge Farm Inc., which allegedly failed to pay employees overtime wages.

Attorney General Raoul’s Workplace Rights Bureau protects and advances the employment rights of all Illinois residents, particularly the state’s most vulnerable residents and immigrant populations. The bureau investigates and litigates cases involving serious or persistent wage law violations or other significant employment practices, and monitors and proposes legislation concerning labor and employment issues.

Attorney General Raoul encourages workers who have concerns about wage and hour violations or potentially unsafe working conditions to call his Workplace Rights Hotline at 1-844-740-5076 or to [file a complaint online](#).