



New York State Department of Labor  
Eliot Spitzer, Governor  
M. Patricia Smith, Commissioner

OPINION  
FILE

May 8, 2007

[REDACTED]

Re: Request for Opinion  
Statute of Limitations - Labor Law §663  
Our File No.: RO-07-0031

Dear [REDACTED]:

I have been asked to respond to your letter of April 2, 2007 in which you ask for "clarification as to when the statute of limitations expires for a back wages claim." You ask this question in the context of a complaint for unpaid overtime wages for the period of August 1, 1998 to September 30, 1998.

Labor Law §663 describes the procedure under which a civil action may be brought for underpayment of wages. Such an action may be brought either by the employee (§663(1)) or by the Commissioner of Labor on the employees' behalf (§663(2)). In either case, such a civil action must be commenced within six years (§663(3)). A civil action is commenced either when a summons is served or filed in the manner directed by §203 of the Civil Practice Law and Rules.

Accordingly, the answer to your question is that the time for a civil action to be brought in this matter expired on September 30, 2004. Such action was not commenced either by making a complaint to the Commissioner or by notifying the employer.

This opinion is based upon the information provided in your letter of April 2, 2007. A different opinion might result if any facts provided have been inaccurately stated, or if there are other relevant facts which have not been disclosed. If you have any further questions, please feel free to contact me.

Very truly yours,

Maria L. Colavito, Counsel

By: Jeffrey G. Shapiro  
Senior Attorney

cc: Carmine Ruberto

JGS:dmm

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bcc: Opinion File  
Jeffrey G. Shapiro, Counsel  
CO Dayfile (RO-07-0031)