

***Effective 7/1/2024***

**34-28-9.5 Private cause of action.**

- (1) Except as provided in Subsection (2), for a wage claim that is less than or equal to \$10,000, the employee shall exhaust the employee's administrative remedies described in Section 34-28-9 and rules made by the commission under Section 34-28-9 before the employee may file an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.
- (2) An employee may file an action for a wage claim in a court without exhausting the administrative remedies described in Section 34-28-9 and rules made by the commission under Section 34-28-9 if:
  - (a) the employee's wage claim is over \$10,000;
  - (b)
    - (i) the employee's wage claim is less than or equal to \$10,000;
    - (ii) the employee asserts one or more additional claims against the same employer; and
    - (iii) the aggregate amount of damages resulting from the claims described in this Subsection (2) (b) is greater than \$10,000; or
  - (c)
    - (i) in the same civil action, more than one employee files a wage claim against an employer; and
    - (ii) the aggregate amount of the employees' combined wage claim is greater than \$10,000.
- (3) In an action under this section, the court may award an employee:
  - (a) actual damages;
  - (b) an amount equal to 2.5% of the unpaid wages owed to the employee, assessed daily for the lesser of:
    - (i) the period beginning the day on which the court issues a final order and ending the day on which the employer pays the unpaid wages owed to the employee; or
    - (ii) 20 days after the day on which the court issues a final order; and
  - (c) a penalty described in Subsection 34-28-5(1)(c), if applicable.

Amended by Chapter 158, 2024 General Session