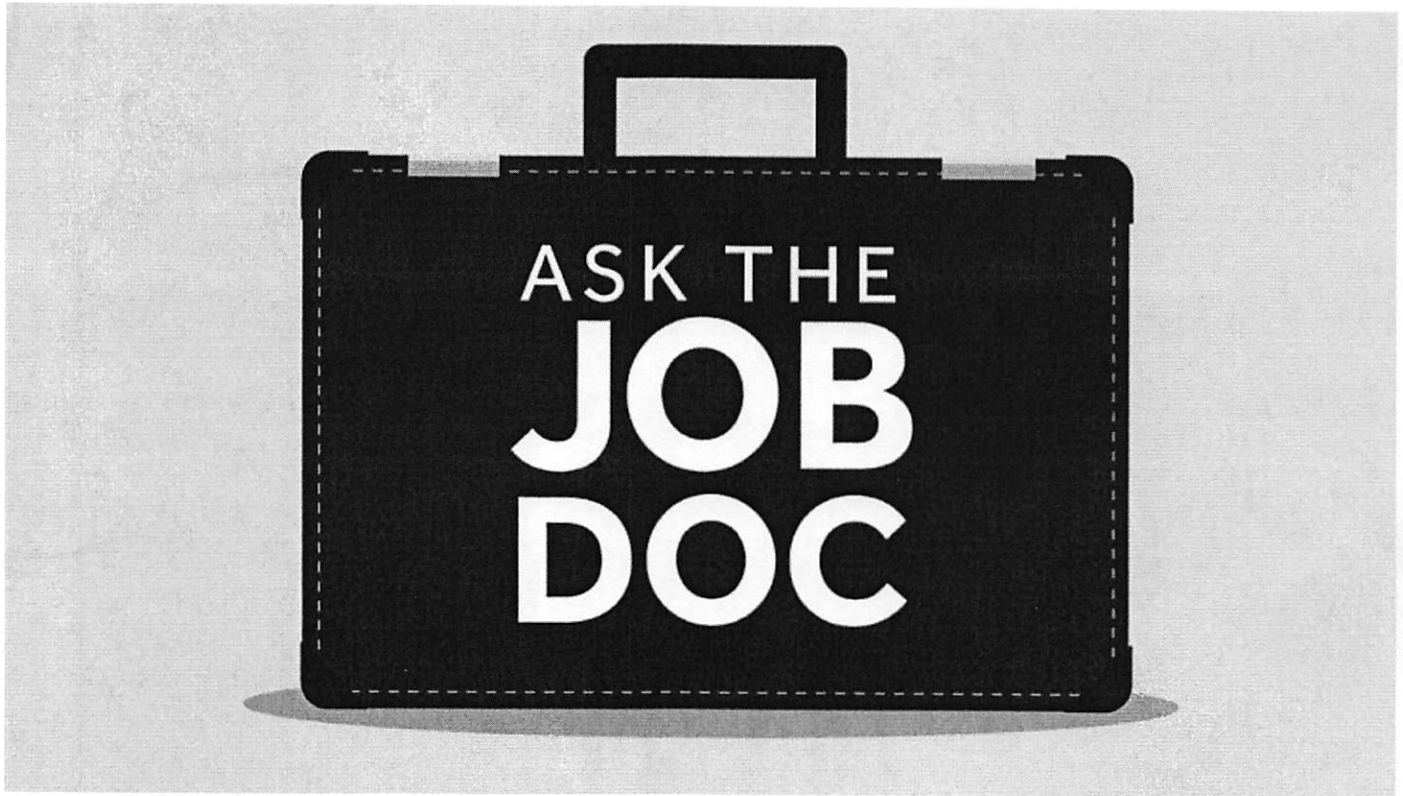


## My former employer isn't paying me my commission



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COMMENTS

By **Pattie Hunt Sinacole**, CEO and Founder of First Beacon Group LLC

8:51 AM

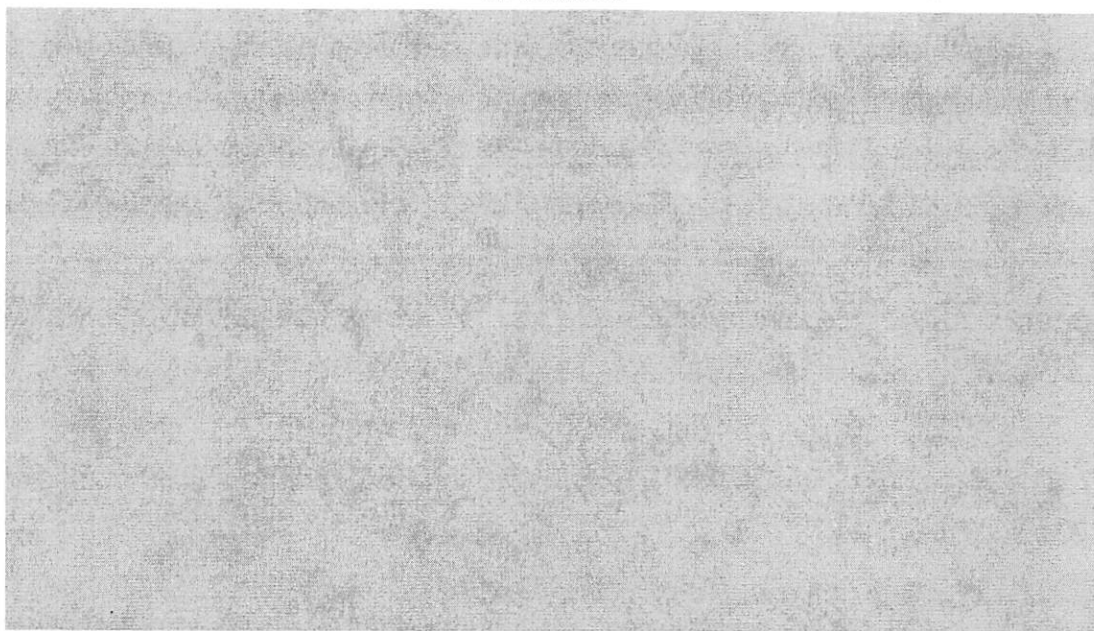
**Q: I am wondering if you can help me. I was recently terminated and I have sales commissions earned but my former employer is refusing to pay me. What is the rule of law here? Should I sue them? What are the steps involved in filing a suit?**

A: I am sorry that you have encountered a difficult situation after separating from your former employer. In short, if you have completed all of the tasks required, then you should be paid any commissions owed to you.

I consulted Attorney Matthew Fogelman, of Fogelman Law in Newton, Massachusetts. Fogelman represents employees (and former employees) in

workplace disputes. You should be paid the commissions, assuming there are "no material contingencies" yet to be fulfilled, according to Fogelman. For example, let's assume you were required to perform a product demonstration before a sale was officially closed. If a product demonstration was required as part of the complete sales process and you were unable to complete that step, you may be ineligible for the commission due. However, if you completed all of the required steps in the sales process, then your commission is due to you, even if you are no longer with the company. Fogelman continued, "Since commissions are non-discretionary, the employee is entitled to them once they are earned and payable, regardless of whether they are still employed or not (assuming no material contingencies remain)." Bonuses and commissions are often treated differently, explained Fogelman, since bonuses are considered discretionary and commissions are not discretionary.

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If your former employer is unwilling to pay you your wages due, you can contact the Attorney General's Office to file a complaint as well as pursuing a Wage Act claim in Court, where treble damages may be available. Visit <https://www.mass.gov/how-to/file-a-workplace-complaint> to understand your rights and the steps involved in filing a complaint. Keep a file of pay stubs, relevant policies and other records. You may also wish to consult an employment attorney to better understand your rights and an employer's obligations.