

Get Back Pay As Pay Back

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In a recent decision, *Kaye v. Rosefielde*, 223 N.J. 218 (2015), the New Jersey Supreme Court clarified the availability of a significant, but underutilized, weapon in an employer's arsenal, holding that, for a breach of loyalty, an employer may be entitled to the return of an employee's compensation even *without proof* of economic damages.

Employers often overlook the "faithless servant doctrine" and simply assume that their only recourse in dealing with an employee's misconduct, particularly, absent economic loss, is termination. Employers would do well to remember *Kaye*.

