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LEGAL BRIEFING: NYS Department of Labor  
HOME HEALTH CARE WAGE BATTLE HEATS UP

Page 1 of 1

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March 9, 2015

On March 2, 2015, New York State, along with Massachusetts, New Mexico and Illinois, officially entered the fray between the federal courts and U.S. Department of Labor (“DOL”) regarding whether the DOL exceeded its authority in extending minimum wage and overtime protections to home health care workers.

In September 2013, the DOL amended the Fair Labor Standards Act (“FLSA”) to require third party employers of home health care workers to pay minimum wage and overtime to this class of workers. Home health care workers were previously excluded from these wage requirements under the FLSA's “companionship exemption”. That amendment to the companionship exemption was set to take effect on January 1 of this year, however the DOL had agreed to delay enforcement for at least six (6) months in response to requests from industry leaders and states such as Kansas, Maryland and Pennsylvania based upon the difficulty in implementing such a rule for this unique segment of the workforce.

Last December, a District of Columbia federal judge vacated the new regulation on the eve of its effective date, ruling that the DOL overstepped its authority. The DOL appealed that decision to the D.C. Circuit Court stating it “strongly disagrees” with the lower court's decision. New York, New Mexico, Massachusetts and Illinois filed an amicus (“friend of the court”) brief earlier this week in support of the DOL.

As things continue to develop we will keep you informed of relevant legal impacts this may have on you, your family and your organization.

This Legal Briefing is intended for general informational and educational purposes only and should not be considered legal advice or counsel. The substance of this Legal Briefing is not intended to cover all legal issues or developments regarding the matter. Please consult with an attorney to ascertain how these new developments may relate to you or your business.

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