



Court Rules In Favor Of DOL's Rule To Make Homecare Providers Eligible For Minimum Wage And Overtime

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Joseph Gagnon was quoted in *Houston CityBizList* on August 26, 2015. The article "Court Rules In Favor Of DOL's Rule To Make Homecare Providers Eligible For Minimum Wage And Overtime" discussed the U.S. Court of Appeals for the D.C. Circuit recent ruling, in which they ruled that the Department of Labor (DOL) does have the power to make homecare providers eligible for minimum wage and overtime pay.

Joseph was quoted on his take of the ruling.

"The rule imposes much-heightened scrutiny on whether employers may classify their employees as exempt from FLSA rules, most notably minimum wage and overtime pay requirements," said Joseph. "The new rule drastically reduces the number of employees who may be classified as exempt, leaving home-care agencies feeling the greatest impact."

According to Joseph, families and individuals who directly employ in-home services may still qualify for the overtime and minimum wage exemption, but their use of the exemption will likely be closely watched. Household eligibility will now be assessed on a week-by-week basis.

Joseph added that it is likely the exemption will be lost if the homecare companion performs services that fall into the category of incidental care, which the new rule has expanded. If a companionship worker spends more than 20 percent of their time performing services such as meal preparation, driving, grooming and bathing, the household may lose the exemption. They also may be at risk of losing the exemption if the companion performs duties for other members of the household. If the exemption is lost, the family or individual will be required to pay minimum wage and overtime pay.

"Employers should remember that interpreting the change and meeting compliance standards is often difficult," said Joseph. "It is always best to receive legal counsel on the front end of such changes, rather than waiting until a government investigation is launched into your company or household practices."

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