DOL Enforcement of Breastfeeding Law Breeds Uncertainty

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John Thompson, a partner in the Atlanta office and editor of the firm's Wage & Hour Laws Blog, was quoted in the January 30 *Law360* article "DOL Enforcement of Breastfeeding Law Breeds Uncertainty." The article noted that the U.S. Department of Labor (DOL) has begun enforcing a law requiring employers to provide break time for nursing mothers, but the agency has not yet issued final implementing rules, leaving employers in the dark about their obligations. The law does not require that nursing breaks be paid, but the DOL has said that if an employer already provides compensated breaks, an employee who uses that break time to express milk must be compensated in the same way that other employees are compensated for break time. The situation is straightforward if an employer has a policy of giving employees a certain number of breaks and a nursing mother uses those breaks to express milk, but it becomes more complicated if an employer follows the general practice that breaks under 20 minutes should be compensated under the Fair Labor Standards Act while longer breaks do not need to be. John said, "It doesn't make sense if it gets interpreted so that if an employee takes a 21-minute break to express milk, you're ok if you don't pay, but if she takes a 19 1/2-minute break you have to pay."

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