

LEGAL UPDATE

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By: Joshua Zuckerberg and Amanda C. Stevens

THE NEW YORK STATE DOMESTIC WORKERS BILL OF RIGHTS: GUIDANCE FOR EMPLOYERS OF DOMESTIC WORKERS

In a legal first for New York, the State Legislature has extended labor law protections to domestic workers. On November 29, 2010, the Domestic Workers Bill of Rights (DWBOR) law became effective, providing greater rights and protections for New York's estimated 200,000 domestic workers. The law also imposes substantial new obligations on domestic workers' employers.

WHICH EMPLOYEES ARE COVERED?

The law covers a broad variety of domestic workers, including nannies, companions for the sick or elderly, housekeepers, and those who are employed "for any other domestic service purpose." Employers should note that several categories of workers are excluded under the law, such as employees who care for the elderly or infirm but are employed by an entity other than the family or household that receives such services, minors who work on a "casual basis" such as babysitters, and relatives by blood or marriage. There is no minimum number of employees needed to trigger application of the law, as DWBOR applies to any individual, family, or household that employs even a single domestic worker.

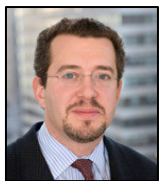
HOW DOES THIS AFFECT EMPLOYEE WAGES AND WORKERS' COMPENSATION?

DWBOR is innovative because it requires domestic workers to be paid at least New York State's minimum wage, which is currently \$7.25 per hour. DWBOR further requires that domestic workers must receive overtime pay, equal to one and one-half times their regular hourly wage for work in excess of forty hours per week (or forty-four hours per week if the domestic employee lives in the employer's home). DWBOR also requires that domestic workers receive twenty-four consecutive hours of rest every calendar week, although this privilege may be waived if the employee agrees to work and the employer agrees to pay overtime for all hours worked on that day. DWBOR also entitles workers to three days of paid time off after one year of employment. The law also amends New York's Workers' Compensation Law making domestic workers eligible to receive statutory disability benefits from their employer, and thus will likely require employers to carry workers' compensation and Disability Benefits Law insurance.

The foregoing is merely a discussion of DWBOR and its implications for you and your domestic employees. If you would like to learn more about this topic or how Pryor Cashman LLP can serve your legal needs, please contact Joshua Zuckerberg at (212) 326-0885, jzuckerberg@pryorcashman.com or Amanda Stevens at (212) 326-163, astevens@pryorcashman.com.

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Joshua Zuckerberg has been with Pryor Cashman since 2000 and became a partner in January 2007. His practice covers the entire spectrum of labor and employment issues. He has extensive experience representing and counseling employers on all matters affecting the workplace, including discrimination, harassment, and disability claims, restrictive covenants, wage and hour issues, and termination and severance practices.

In addition, Mr. Zuckerberg represents employee associations whose membership includes physicians, professors, stage directors and fire officers. Mr. Zuckerberg has developed considerable expertise in arbitration, mediation, collective bargaining, and federal and state litigation.

Recently, Mr. Zuckerberg has:

- Represented high level executives in various termination and severance negotiations
- Prosecuted and defended collective action wage and hour cases in the restaurant industry
- Initiated and settled a sexual harassment litigation against a Fortune 500 Bank
- Defended a real estate company and its executive in a quid pro quo sexual harassment claim

Mr. Zuckerberg is a 1997 graduate of Brooklyn Law School, where he was a member of the Brooklyn Journal of International Law and the Moot Court Honors Society. He was awarded an Edward V. Sparer Public Interest Law Fellowship.



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Amanda Stevens is an associate in the Litigation Group, with experience in intellectual property and entertainment litigation. Her practice also encompasses other areas of complex commercial litigation including insurance and real estate.

Amanda joined Pryor Cashman in 2008 after working for the firm as a summer associate in 2007. She is a 2008 graduate of Cornell Law School and during law school was a summer extern for the Honorable Roger L. Hunt, District Judge for the U.S. District Court, District of Nevada.