

NY DEPARTMENT OF LABOR SERVES NEW WAGE AND TIP RULES TO RESTAURANTS

Following up on previous Oved & Oved LLP client alerts, after years of uncertainty with respect to restaurant industry employment practices and wages and a flurry of wage related lawsuits filed against hospitality industry defendants, the NY Department of Labor has finally filed a new order setting out strict guidelines on wages and tips.

Among other changes, the new order would implement the following:

- An increase in the minimum wage for tipped food service employees from \$4.65 to \$5.00;
- An increase in the minimum wage for service employees from \$4.90 to \$5.65;
- An increase in the minimum wage for resort hotel service employees from \$4.35 to \$4.90;
- Defining certain criteria which, if met, would allow an employer to mandate tip pooling; and
- An obligation for restaurants to pay employees for an addition hour if they work ten or more hours a day.

While the new order brings welcomed clarity to industry employers, the timing of its enactment has upset many and raised fears of future litigation. Despite the fact that the Labor Department took over a year to finalize the new order, they have given employers a mere two weeks notice before the changes go into effect on January 1, 2011. Moreover, the two week period in which employers are presumably supposed to overhaul their entire payroll system is taking place during the holiday season, typically the hospitality industry's busiest time of the year. Most disturbing to employers is the fact that the changes are to be implemented as of 12:01 a.m. on New Years Day, the single busiest night for the entire industry, heightening already wary employers' fears that the large volume of business on New Years Eve, together with inevitable mistakes and errors employers may make in switching to the new rules, is a recipe for confusion, potential labor disputes and litigation.

We are closely involved in monitoring these events and will continue to provide you with pertinent updates as more information becomes available. If you have any questions about the matters covered in this Client Alert, or wish to schedule a private consultation, please call Terrence A. Oved, Esq. of Oved & Oved LLP by telephone at 212.226.2376 or contact by email at terry@ovedlaw.com.

OVED & OVED LLP
101 AVENUE OF THE AMERICAS
15TH FLOOR
NEW YORK, NY 10013
TEL: 212.226.2376
FAX: 212.226.7555

www.ovedlaw.com

This Client Alert is a source of general information for clients and friends of Oved & Oved LLP. Its content should not be construed as legal advice, a comprehensive summary of recent developments in the law, or an exhaustive treatment of the subject(s) covered. Readers should not act upon the information in this Client Alert without consulting counsel. Attorney advertising, prior results do not guarantee a similar outcome.

© 2011 OVED & OVED LLP.
All rights reserved.

