

## Service

## Labor &amp; Employment

## Proposed Federal Companionship Regulations Covering the Home Care Industry Stayed by Federal Judge at the “Eleventh Hour”

Last week, Judge Richard J. Leon of the Federal District Court for the District of Columbia vacated the “third party” regulation on the federal companionship exemption, which would have prevented third party employers from utilizing the companionship exemption from minimum wage and overtime, as well as the “live-in” exemption from overtime. On December 31, 2014, the judge temporarily stayed the regulations which would have significantly altered the duties an exempt companion could provide. The regulations, which were set to go into effect at midnight tonight, would have prevented exempt companions from providing any “general household work” at all, and would have prevented them from engaging in any “care” of the client for more than 20 percent of their working time.

If these regulations had gone into effect, companions would have only been allowed to engage in “fellowship” and “companionship” activities (i.e., going for walks, playing games, watching television) with the client for 80 percent of their working hours. For now, the federal regulations on these issues that have been in effect for 40 years remain in effect. Companions may continue to spend unlimited time “caring” for their clients and assisting them with their activities of daily living, among other duties, and they may engage in “general household work” (such as dusting and vacuuming) up to 20 percent of their working hours. The judge’s stay expires on January 15, 2015. A lengthier preliminary injunction hearing is scheduled for January 9, 2015.

It is important to note that the regulations regarding the definition and record-keeping requirements pertinent to “live-ins” are not part of this recent action,

and will presumably go into effect on January 1, 2015. It is also important to note that the judge's order has no effect on state or local law on these issues.

This case is captioned *Home Care Association of America, et al. v. David Weil, et al.*, Case No. 14-cv-967.

### **Contact Us**

This is very exciting news for employers in the home care industry, for their employees, and for their clients. If you have any questions, please contact your Husch Blackwell attorney.