

Brennan Center Urges Supreme Court to Recognize Home Care Worker Wage Rights

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Brennan Center Urges U.S. Supreme Court to Recognize Minimum Wage Rights of Home Care Workers

The Brennan Center for Justice at New York University School of Law and New York's Urban Justice Center, together with eight national civil rights groups, yesterday filed a [brief](#) asking the U.S. Supreme Court to strike down an outmoded U.S. Labor Department rule that denies millions of home care workers the protection of federal minimum wage and overtime laws. Supreme Court specialist David Goldberg worked with the groups to lead this effort.

“The Bush Labor Department’s attempt to deny millions of home care workers the right to a minimum wage is not just inhumane – it’s illegal,” said Paul Sonn, co-director of the Brennan Center’s Economic Justice Project. “Striking down this unauthorized exclusion for employees of large home care agencies is a first step towards extending wage protections to the whole home care workforce.”

Domestic work – the occupation in which fully 60% of African American women were employed in the mid-twentieth century – was excluded when the federal minimum wage was first enacted in 1938. During the 1960's, Congress extended minimum wage coverage to large companies, which resulted in home care workers employed by for-profit agencies being covered. And in 1974, the civil rights and women's rights movements spurred Congress to extend minimum wage protections to most other domestic workers.

Perversely, however, the U.S. Labor Department then interpreted that expansion as authorizing it to repeal minimum wage coverage for home care workers employed by large agencies. After years of protests, in the 1990's the Clinton Administration began to reverse this legally dubious and unfair interpretation. But the Bush Administration stopped that process and has fought in the courts to preserve the exclusion.

The U.S. Court of Appeals struck down the Labor Department rule that denies minimum wage protection to these workers and the home care industry appealed to the U.S. Supreme Court. Oral argument in the case (*Long Island Care at Home v. Coke*) is scheduled for April 16, and a decision is expected by June.

“Home care staff work incredibly hard, often in difficult conditions, for some of the lowest wages in the service industry,” said Molly Biklen, an attorney with the Urban Justice Center's Community Development Project. “This administratively created exemption for workers employed by large companies conflicts both with Congress's intent and with other regulations issued by the Department of Labor.”

With the aging of the U.S. population, the home care workforce has grown rapidly and now employs nearly 2 million Americans. 90% of these workers are women, and half are African Americans and Latinas. They provide the essential care that enables our nation's sick, elderly

and disabled to live in their homes with dignity rather than being institutionalized. Their exclusion from the minimum wage means that most work full-time yet remain in poverty.

The civil rights groups that joined with the Brennan Center and the Urban Justice Center in filing the friend-of-the-court brief were the Asian American Legal Defense and Education Fund, the Mexican American Legal Defense and Educational Fund, the Puerto Rican Legal Defense and Education Fund, the National Women's Law Center, the National Partnership for Women and Families, Legal Momentum, the Washington Lawyers' Committee for Civil Rights and Urban Affairs, and the American Civil Liberties Union.

The Urban Justice Center represents low-wage workers across the New York area in enforcing their rights to fair pay in the workplace.

The Brennan Center's Economic Justice Project works at the federal, state and local levels to strengthen the minimum wage for low-income families. Through those efforts, in recent years states such as Arizona and Ohio, and cities such as San Francisco and Santa Fe have extended minimum wage protections to home care workers.