Nelp and Consumer and Employer Groups File Amicus Brief in D.C. Circuit Supporting DOL Companionship Regulations

Washington, DC—Today, NELP filed a friend-of-the-court brief in the District of Columbia federal appeals court on behalf of 27 consumer, employer and policy groups supporting the Department of Labor’s companionship regulations providing for minimum wage and overtime protections for most of the nation’s two-million-plus home care workers.

The appeal follows rulings by a federal district judge in D.C. in favor of home care industry groups and the International franchise Association, which sued to stop the DOL’s home care rules. On December 22, 2014, U.S. District Court Judge Richard Leon issued an opinion and order in Home Care Association of America v. Weil, Civil Action No. 14-967 (D.D.C.), vacating the third-party regulation amended by the Home Care Final Rule. On January 14, 2015, Judge Leon issued an opinion and order vacating the Final Rule’s revised definition of companionship services. The government appealed these rulings and secured an expedited appeal in the Circuit Court. The industry groups that brought this lawsuit have unjustly stymied a long-overdue reform that would have brought two million hard-working home care workers the protection of our nation’s most basic workplace laws.

The brief focuses on the dramatic transformation of the industry since the companionship exemption was first enacted and defined in the 1970s, and addresses industry groups’ unfounded assertions about the negative consequences of extending wage rights to the workforce. The employers and consumers who joined this brief, including PHI, Hand in Hand, and Cooperative Home Care Associates, speak from their own experiences in describing the benefits of providing minimum wage and overtime protections to home care workers, showing that doing so does not render home care businesses unprofitable or services unaffordable. The Department of Labor’s rule is not only a sound and well-considered reform; it will also reduce turnover, ease the persistent labor shortages in the industry, and strengthen the quality of care.

For-profit home care corporations have unfairly profited from the exemption and can well afford to do right by their workers. Industry revenues have soared as wages have stagnated. Our nation’s fasting growing workforce—90 percent of whom are women and half women of color—should not be held hostage by the industry lobbying groups seeking to block these most minimal pay standards.

NELP’s brief was filed on behalf of the Paraprofessional Healthcare Institute (PHI); Caring Across Generations; the Center for Medicare Advocacy, Inc.; Community Catalyst; National Consumer Voice for Quality Long-Term Care; Hand in Hand; Cooperative Home Care Associates; American Geriatric Society the American Society on Aging; and a host of other national and state-based groups representing home care consumers, employers and policy advocates. Professor Kate Andrias of the University of Michigan co-authored the brief with NELP. Additional amicus briefs supporting the Department’s rules are expected to be filed today by leaders in the consumer field, elder and disability communities, unions and domestic worker advocates, and Members of Congress.

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The National Employment Law Project is a non-partisan, not-for-profit organization that conducts research and advocates on issues affecting low-wage and unemployed workers. For more about NELP, visit www.nelp.org.