

For Immediate Release: November 19, 2010

Contact: Cathy Ruckelshaus, 914-588-9909

News Release

PA High Court Upholds Minimum Wage & Overtime For Home-Care Workers Employed by Agencies

National Employment Law Project Applauds Ruling, Urges Federal Reforms

New York, NY. Home healthcare aides employed by agencies in Pennsylvania got a boost from the Pennsylvania high court on Wednesday when it handed down a long-awaited decision affirming that the workers are protected by the state's minimum wage and overtime laws.

"This important decision sends a clear message to home-care agencies in Pennsylvania and many other states that they cannot shirk their responsibility to pay home-care workers what they've earned under the law," said Cathy Ruckelshaus, legal co-director of the National Employment Law Project, which filed an *amicus* brief on behalf of the AARP, SEIU, and PA Labor Federation urging the court to uphold basic labor protections for these agency-employed home-care workers. "This decision highlights the need for long-overdue reform of minimum wage and overtime rules for home healthcare workers at the federal level," added Ruckelshaus.

Home healthcare workers hold one of the most physically and emotionally demanding jobs in our economy. Many work in excess of the regular 8-hour work day and the 40 hour work-week but do not receive minimum wage or overtime. A recent U.S. Supreme Court decision, *Long Island Care at Home v. Coke*, 127 S.Ct. 2339 (2007), affirmed earlier Labor Department regulations that exclude home health aides from the federal wage protections most workers take for granted.

Unlike federal law, Pennsylvania's Minimum Wage Act has clear statutory language covering all agency-employed domestic workers, including all agency-employed home healthcare workers. Pennsylvania and around 20 other states provide stronger protections for agency-employed home healthcare workers than federal law.

The Pennsylvania lawsuit was brought by Bayada Nurses Inc. in an attempt to avoid paying its home healthcare aides the overtime pay they are entitled to under Pennsylvania statute and regulations. The company argued it was exempt from minimum wage and overtime rules, claiming to be jointly employing the aides with its householder customers, who are exempt under Pennsylvania law. The

company also argued that Pennsylvania should adhere to current federal interpretation. The Pennsylvania Supreme Court resoundingly rejected those arguments.

The *amicus* brief filed by NELP on behalf of the AARP, SEIU, and PA Labor Federation cited strong public-policy reasons for the Pennsylvania regulation that specifically requires agencies to pay their home healthcare workers minimum wage and overtime:

- Through 2018, home care aides and attendants will account for the largest job growth of any occupation, according to the Bureau of Labor Statistics. Without good wages for these jobs, the service industry will not be able to reach its potential as a driving force in our country's economic growth.
- One in five home healthcare workers lives below the poverty line, and large numbers receive food stamps. A recently released state-by-state survey of wages found that the average hourly wages of home healthcare workers are low enough to qualify workers for public assistance in 29 states.

The *amicus* brief is at <http://www.nelp.org/page/-/Justice/BayadaHomeHealthBrief2008.pdf>. NELP works closely with its partners to advocate for living wages for these important workers: http://www.nelp.org/site/issues/category/industry_strategies

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