

COURT OF APPEALS DENIES MOTION FOR LEAVE TO APPEAL IN A LIVE-IN CASE

Home Care Alert
November 29, 2017

Practices & Industries

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On November 21, 2017, the New York Court of Appeals denied an application filed by Human Care LLC seeking leave to appeal the First Department's April 11, 2017 decision that held that "live-in" aides must be paid for all 24 hours of a live-in shift. The Court of Appeals denied the application because the Human Care litigation was not "final" within the meaning of the State Constitution. Human Care's motion to the Court was supported by the amicus curiae brief of New York State Health Care Providers Association ("HCA") and New York Home Care Association ("HCP"), which was prepared and filed by Hodgson Russ' Home Care Group.

As a result of the Court's denial of Human Care's motion for leave to appeal, the First Department's decision in *Human Care* remains the law, for now, within Manhattan and Bronx counties. Accordingly, live-in aides who worked in these counties may assert that they should have been paid 24 hours for each 24-hour shift worked, irrespective of their meal and sleep periods, for those 24-hour shifts worked prior to October 6, 2017, when the New York Department of Labor issued emergency regulations related to live-in aide compensation (available at: <https://docs.dos.ny.gov/info/register/2017/oct25/rulemaking.pdf>).

If you have any questions about the status of live-in lawsuits in New York or need assistance responding to any claims asserted by a live-in worker, please contact any member of our Home Care Group.