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VISHNICK MCGOVERN MILIZIO LLP

ATTORNEYS AT LAW

3000 Marcus Avenue | Suite 1E9 | Lake Success | NY 11042 | 516.437.4385
830 Third Avenue | Fifth Floor | New York | NY 10022 | 212.759.3500
255 Monmouth Road | Second Floor | Oakhurst | NJ 07755 | 732.531.8900

www.VMMLEGAL.COM

Important Labor Updates

By Andrew A. Kimler, Esq. and Avrohom Gefen, Esq.

What would a new year be without several important changes to New York State's labor laws and regulations? The following is a summary of those changes of which you should be aware.

WAGES

Effective December 31, 2015, the basic hourly rate for all workers is \$9.00 per hour. The minimum wage for tipped workers, such as food service workers and other service employees, is now \$7.50 per hour. In New York City, the minimum wage for "fast food employees" working at a "fast food establishment" is \$10.50 per hour. For the rest of the state, it is \$9.75 per hour. These rates will increase annually until they reach \$15.00 at the end of 2018 for New York City and in the middle of 2021 for the rest of the state.

SEX DISCRIMINATION AND WOMEN'S EQUALITY

Governor Cuomo has signed into law several pieces of legislation known collectively as the "Women's Equality Act," which became effective on January 19, 2016. These changes concern the rights of working women. The following are summaries of these changes:

Pay Equity

Among other things, the law will attempt to achieve "pay equity" by strengthening the State Labor Law's prohibitions on differential pay based on sex. The old law provided an exception to the rule that men and women receive equal pay for equal work if the employer could prove that the differential payment is based on "any factor other than sex." Under the amended law, an employer must demonstrate that pay differences are based on "a bona fide factor other than sex, such as education, training and experience." The bona fide factor also must be job-related and consistent with business necessity. The law also allows employees to discuss their wages with each other and increases the amount of damages available to employees from 100% of the amount of unpaid wages to 300%, if an employer willfully violates the law.

Sexual Harassment

The law also amends the State Human Rights Law and allows employees who work for an employer of any size to file sexual harassment claims. Prior to this change, employees were permitted to pursue sexual harassment claims only against employers with four or more employees.



Andrew Kimler and Avrohom Gefen

Attorney's Fees

The law amends the State Human Rights Law to allow successful plaintiffs to recover attorneys' fees in employment or credit discrimination cases based on sex. It is important to note, however, that federal law and the New York City Human Rights law already provided for an award of attorneys' fees to the prevailing party with respect to discrimination claims.

Pregnant Employees

The Human Rights Law was amended to require employers to provide reasonable accommodations for pregnant employees unless it creates a hardship. It should be noted, however, that the New York City Human Rights Law was previously amended to require employers with four or more employees to provide reasonable accommodations for pregnancy, child birth and related medical conditions.

NYC EMPLOYEE TRANSIT BENEFIT

New York City's Commuter Benefits Law went into effect on January 1, 2016. Among other points, the law requires employers with 20 or more employees working in New York City to offer full-time (30 hours or more per week) employees the option to use pre-tax income to pay for qualified transportation. Employers may be fined between \$100 and \$250 for an initial violation. The law also requires employers to keep records showing that each eligible employee was offered pre-tax transit benefits and whether the employee accepted or declined.

Please feel free to contact our offices for further information, as the above summaries do not reflect all of the details and requirements of the newly enacted laws. 

Partner Andrew A. Kimler, Esq., and associate Avrohom Gefen, Esq., practice in the firm's Litigation and Employment Law Practice Groups. Mr. Kimler can be reached at akimler@vmmlegal.com/516.437.4385, ext. 122 and Mr. Gefen can be reached at agefen@vmmlegal.com/516.437.4385, ext. 119.

New Disclosure Rules Affect Timing Of Real Estate Closings

By James F. Burdi, Esq.

The Consumer Financial Protection Bureau recently made broad changes to the mortgage loan disclosure process. One of the changes is the replacement of the HUD-1 Settlement Statement (which has been in use in various forms since the 1970s), with a new form known as the Closing Disclosure. Unlike the HUD-1, the Closing Disclosure must be provided at least three business days in advance of closing and must be as accurate as possible, with very limited room for changes being made at the closing table. The new process is being referred to as TRID, the acronym for TILA-RESPA Integrated Disclosure.

If the Closing Disclosure is delivered in person, three business days are sufficient. If it is mailed or delivered electronically, the borrower is deemed to have been provided with it three business days after it is either placed in the mail or sent electronically. This second three day period can be shortened if the borrower acknowledges receipt. Sunday and holidays add to the time frame.

The waiting period can only be waived to meet certain financial emergencies, which the borrowers must articulate in his or her own signed statement.

In practical terms, a borrower is unable to schedule a closing on less than seven calendar days' notice. Once the Closing Disclosure is prepared and provided to the borrowers, the parties risk adjournment if any changes or corrections are made.

These new regulations thus have created problems in scheduling closings. There are many factors to be considered in scheduling a closing, including:

- School calendars
- Vacation schedules
- Loan commitment expiration dates
- Attorney availability

Often, a file is not ready to close in sufficient time to allow for a seven day waiting period. In addition, there are many items that may change at closings, such as:

- Tax adjustments
- Credits for mortgage interest
- Escrows



James F. Burdi

Some of these items can be changed at closing, with the settlement agent simply providing a new Closing Disclosure. However, most settlement agents are presently unwilling to make any changes to the Closing Disclosure, owing to the stiff penalties for non-compliance.

We are working closely with the lenders we represent and with other settlement agents to be certain that compliance causes as little inconvenience to borrowers as possible. It is likely that over time, settlement agents and lenders will be more comfortable with the regulations and will be in a better position to amend Closing Disclosures as needed. In the meantime, borrowers should expect that no closing will be scheduled on short notice and that some closings will be adjourned, through no fault of the parties, as the lending industry adjusts to TRID. **M**

James F. Burdi, Esq. is a partner in the Real Estate, Business and Transactional Law, Elder Law, and Trusts and Estates Practice Groups. He can be reached at jburdi@vmmlegal.com or 516.437.4385, ext.130.



The attorneys at Vishnick McGovern Milizio LLP possess a wealth of knowledge that we wish to share with our friends. We've created VMM Academy as a way to educate, connect and foster discussions about legal topics we believe will provide the greatest benefit to the public. Please join us for VMM Academy's 2016 Seminar Series.

In the intimate setting of our Lake Success office, seating will be limited to allow ample question and answer time for those in attendance. All VMM Academy seminars will be held on the final Wednesday evening of the month from 5:45 to 8:00 PM. Networking and registration from 5:45 to 6:15 PM; programs begin promptly at 6:20 PM. Light refreshments will be served.

MONTHLY ANNOUNCEMENTS WILL BE SENT BY EMAIL, AT WHICH TIME PLEASE MAKE YOUR RESERVATION.

IF WE DO NOT HAVE YOUR EMAIL ADDRESS, PLEASE CONTACT MINDY WOLFLE AT mwolfe@vmmlegal.com OR 516.390.3027.

THERE IS NO CHARGE TO ATTEND VMM ACADEMY.

VMM ACADEMY SCHEDULE
LAST WEDNESDAY OF THE MONTH / 5:45 PM - 8:00 PM

SPRING 2016 SEMESTER

Date	Topic	Presenter
March 30, 2016	Estate Planning for Young Families	Constantina S. Papageorgiou, Esq.
April 27, 2016	Tax Implications of Estate Planning	Morris Sabbagh, Esq.
May 26, 2016	Before the Divorce: Planning for Your Future	Joseph Trotti, Esq. and Morris Sabbagh, Esq.

SUMMER BREAK

FALL 2016 SEMESTER

Date	Topic	Presenter
September 28, 2016	Employment Law for Business Owners	Andrew A. Kimler, Esq.
October 26, 2016	Avoiding the Pitfalls of Buying Investment Property	James F. Burdi, Esq. and John P. Gordon, Esq.
November 30, 2016	Exit Planning for Business Owners	Joseph G. Milizio, Esq.

news & Events

VMM Partner **Andrew A. Kimler** was again a presenter, along with U.S. Department of Labor District Director Irv Miljoner, at the 2015 Long Island Tax Professionals Symposium on November 20, 2015 at the Crest Hollow Country Club in Woodbury. They covered many aspects under the umbrella of misclassification of employees in a program entitled, “Contractor? Exempt from Overtime? Intern or Employee? It All Depends!”

Dean Richard Bales of the Ohio Northern University Pettit College of Law invited alumni **Andrew A. Kimler** to the campus as special guest “Dean’s Speaker” on February 11, 2016. Mr. Kimler addressed “Finding Your Niche: Creating and Growing a Specialty Practice Area.”



Andrew A. Kimler

Included in his program was a discussion of how Vishnick McGovern Milizio LLP expanded and refined its practice areas to meet the diverse needs of its clients, including the LGBT community.



Madison Porzio

Madison Porzio, Esq., LL.M., has joined Vishnick McGovern Milizio LLP in the firm’s Trusts and Estates Practice Group. She concentrates in the areas of Trust and Estate Administration, Trust and Estate Litigation and Estate Tax Planning. Ms. Porzio is admitted to practice law in New York State and is a member of the New York State, Queens County and Nassau County Bar Associations; the Queens County Women’s Bar Association; and the Nassau and Queens chapters of the Columbian Lawyers Association. She has earned a Masters of Law degree in Taxation with a concentration in Estate Planning and a Juris Doctor degree, both from New York Law School, and received a Bachelor of Arts degree from California State University, where she majored in Political Science and minored in Pre-Law.

James (Jim) Seegert, VMM Expediter, has been appointed to the board of directors of the Association of Professional Volunteer Administrators. APVA-LI is a professional association for volunteer managers in the Long Island/metro New York City region, offering members professional development training opportunities, networking with colleagues, technical assistance and other relevant services to promote and enhance the profession of managing volunteers in a diverse mix of agencies and settings.



Pictured left to right: Sara Kim-Beague; Helen Kim; US Senator Charles E. Schumer; Min Sun Kim; and Eun Chong (EJ) Thorsen.

Associate **Eun Chong (EJ) Thorsen** served as a chair of the January 9, 2016 Korean Day Celebration at the Metropolitan Museum of Art, which launched fundraising efforts to build the first Korean American immigrant heritage museum in New York. The event was presented by the Korean American Association of Greater New York (KAAGNY).

VMM is pleased to welcome paralegal **Francesca A. Toscano** to the firm’s Trusts and Estates Practice Group. In this capacity, Francesca works with attorneys and clients in estate planning and estate administration. She is a graduate of New York City College of Technology with a Bachelor of Science degree in Paralegal Studies. Among her proficiencies, Ms. Toscano is fluent in Italian.



Francesca A. Toscano

Mindy Wolfe, chief marketing officer of Vishnick McGovern Milizio LLP, gave the inaugural presentation of the Community Leadership Program on January 26, 2016, hosted by the Jewish Community Relations Council—Long Island. She shared her expertise in making connections with an interactive seminar entitled, “Tips and Tricks for Developing Your Network.”

Mindy will be recognized by Long Island Business News at an awards breakfast on March 24, 2016 at the Crest Hollow Country Club in the In-House Marketing – Leadership position category. The judging for this honor considered her creativity, diligence, philanthropy, wide-ranging responsibilities and the high regard she has among her colleagues and leadership at VMM.



VISHNICK MCGOVERN MILIZIO LLP
ATTORNEYS AT LAW

3000 Marcus Avenue, Suite 1E9
Lake Success, NY 11042

www.VMMLEGAL.COM

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