



NY Court of Appeals Upholds DOL's Interpretation of 13-Hour Live-in Standard

On March 26, 2019, the New York State Court of Appeals [upheld](#) the 13-Hour Rule for cases involving 24-hour live-in care, a ruling which is favorable to the home care industry.

In its ruling, the Court held that the Appellate Division did not give adequate deference to the Department of Labor's ([DOL's](#)) interpretation of a Wage Order (in its 2010 opinion letter) that the 13-hour rule applied to all "live-in" aides regardless of whether they were residential. The Court stated that the Wage Order was not irrational or unreasonable, relied on DOL's interpretation of the wage order, and noted that DOL possessed specialized knowledge of labor law's evolving application to domestic workers and the health care industry. The Court further noted that it is for DOL and the legislature to consider whether the sleep and meal time exemption is a viable methodology to ensure employer compliance with the law and proper wage payment in the case of home health care aides.

This ruling will protect home care agencies to an extent, but the decision also states that employers could be subject to liability if they systematically deny employees meal and sleep breaks during their 24-hour shifts. Employers should be proactive and track sleep and meal periods, maintain adequate records, and compensate for hours actually worked.

If you have any questions about this decision, please feel free to [contact](#) our office.

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