

FOR IMMEDIATE RELEASE

For more information, contact:

Jessie Gagnon, Marketing Specialist
Robinson & Cole LLP | (860) 541-2649, jgagnon@rc.com

Wage and Hour Case Argued by Robinson & Cole Highlighted at Annual National Limousine Association Day on the Hill in Washington D.C.

NEW YORK, NY (May 29, 2012) – Robinson & Cole [labor and employment](#) lawyer [Katherine C. Glynn](#) was a featured speaker earlier this month at the National Limousine Association’s Day on the Hill in Washington D.C. The association invited Ms. Glynn to discuss a U.S. District Court decision in which she served as defense counsel on behalf of Commonwealth Worldwide Chauffeured Transportation of New York. In *Andrew Ellis v. Commonwealth Worldwide Chauffeured Transportation of NY, LLC* (United States District Court, Eastern District of New York) the court granted the defendants’ motion for summary judgment in its entirety and dismissed all claims brought against Commonwealth. Ms. Glynn was defense counsel for Commonwealth and its executive vice president.

The plaintiff, a former chauffeur for Commonwealth, claimed that Commonwealth violated wage and hour laws. The court issued three important rulings from the case for the limousine industry:

- The court held that tips are not considered compensation under the Fair Labor Standards Act, because they are discretionary and not part of compensation considered in calculating overtime pay. The court found that Commonwealth’s practice of recommending tip amounts to clients still allowed tips to be discretionary amounts that did not have to be part of the overtime calculation. It also held that a tip could be paid by a third party who had no direct contact with the server/chauffeur and still be considered a tip under the Fair Labor Standards Act.
- The court maintained if an employer has a policy requiring employees to notify their employer when they work through a break and employees fail to report this, the employer is not liable for not paying employees for working through that break.
- The court held that the New York Spread of Hours Law only applies to employees earning the minimum wage. The law requires New York employees to receive one additional hour’s pay at the basic minimum hourly wage rate in addition to their minimum wage for any day in which they worked more than 10 hours. The plaintiff argued that the law applies to low wage workers, not just those earning minimum wage.

“Commonwealth proved it was unaware that the plaintiff was not paid for any meal breaks he did not take and demonstrated it had a policy requiring the plaintiff to inform Commonwealth if he was unable to take a meal break,” Glynn said. “We proved that the plaintiff signed a copy of the policy. Because the plaintiff’s chauffeuring job involved a lot of independent traveling, and he could not be monitored easily by supervisors, it was up to the plaintiff to follow the policy. The plaintiff admitted he never informed his employer that he was unable to take a meal break.”

Case reference is *Andrew Ellis v. Commonwealth Worldwide Chauffeured Transportation of NY, LLC*, et al., 2012 U.S. Dist. LEXIS 40288, *; 162 Lab. Cas. (CCH) P36, 006 (March 23, 2012 E.D.N.Y.)

- MORE -

More about Robinson & Cole LLP

Robinson & Cole is an Am Law 200 firm with approximately 225 lawyers in nine offices serving regional, national, and international clients, from start-ups to Fortune 500 companies. Since 1845, Robinson & Cole has expanded to meet the changing needs of clients. The firm represents corporate, governmental, and nonprofit entities, as well as individual clients, in a wide range of matters, including corporate; business and insurance litigation; tax and tax-exempt; finance; public finance; land use, environmental and utilities, and real estate; health law; labor, employment, and benefits; intellectual property and technology; and government relations. For more information, please visit www.rc.com.

###