

LABOR AND EMPLOYMENT LAW ALERT - June 3, 2010

Miami-Dade County Commission Amends Wage Theft Ordinance

Effective March 1, 2010, the Miami-Dade County Commission passed the Wage Theft Ordinance (the "Ordinance"). The Ordinance gave employees, who were not properly paid within a "reasonable period of time," the right to seek wages (including overtime and triple damages). The Ordinance also established an administrative procedure prosecuting "wage theft" claims.

The Ordinance required payment to employees within a "reasonable period of time." The Ordinance presumed this period of time to be no later than fourteen (14) calendar days from the date on which work was performed. This date can be extended up to thirty (30) days by a written agreement between the employer and the employee. Employers complained that the 14 day period would cause havoc with their payrolls since many employers paid semi-monthly. Other employers complained that commissions and other payments could not be calculated until after the thirty-day (30) period.

As a result, this afternoon the Miami-Dade County Commission amended the Ordinance (the "Amended Ordinance") to redefine the "reasonable period of time" in which to pay employees. The "reasonable period of time" is now defined as "no later than fourteen calendar days from the date on which work is performed unless the employer has established, by policy or practice a pay schedule whereby employees earn and are consistently paid wages according to regularly reoccurring pay periods in which case such pay schedule shall govern."

The Amended Ordinance does away with the requirement of a written, signed agreement and allows employers to pay according to their policies and practices on a schedule that is consistent how wages are earned and paid. As a result, employers with employees in Miami-Dade County should consider a written policy (contained in the company's handbook or otherwise) that sets forth when wages are earned, and make clear what is the regularly reoccurring pay schedule for all wages (including commissions and bonuses).

The Amended Ordinance will become effective on June 13, 2010 unless the amendment is vetoed by the Mayor of Miami-Dade County. A veto is not expected to occur.

On March 23, 2010, our Firm conducted a webinar discussing, in detail, the requirements and procedures contained in the Ordinance. Please [CLICK HERE](#) to access this webinar on our website. The information contained in the webinar is current on the requirements and procedures of the Ordinance except for the amendment discussed above. As a result, the webinar discussion regarding the time period to pay employees and the need for a written and signed agreement should be disregarded.

If you have any questions, please contact Bob Turk, Co-Chair of the Labor and Employment Department at 305-789-3460 or rturk@stearnsweaver.com