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UI building for
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Cohen and Wolf, P.C.
 cordially invites you to celebrate
 the opening of its new office
 in the former United Illuminating Building
 115 Broad Street, Bridgeport, Connecticut
 Thursday, November 11, 1983 4:30 to 7:30 PM

U.S. DOL Issues Regulations Regarding the FFCRA's New Emergency Leave Laws

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By: Stuart M. Katz

On April 1, 2020 – the same day that the Families First Coronavirus Response Act (“FFCRA”) became effective – the U.S. Department of Labor published 124 pages of regulations pertaining to these new **Emergency Family Medical Leave** and **Paid Sick Leave laws**. In large part, these regulations confirmed previous explanations that we have seen over the past couple of weeks; particularly those set forth in the DOL’s FAQ’s. There are, however, a number of items in the regulations that appear to differ from or clarify these prior understandings. A few of these items are highlighted below.

- Paid sick leave is available to an employee who has been advised to self-quarantine for a Covid-19 related reason, if the self-quarantine prevents the employee from teleworking. If the employee can telework, then paid sick leave is not available.
- Paid sick leave is available if an employee needs to care for “an individual” suffering from Covid-19. We now know that the definition of “individual” in this context includes immediate family members, roommates, or similar persons with whom the employee has a relationship that creates an expectation that the employee would care for the person if he or she was quarantined.
- Paid sick leave is available if an employee needs to care for a child whose school is closed. If the employer does not have work for the employee, the leave is not available. Also, if another suitable individual is available to care for the child, the employee is not entitled to the leave.
- Emergency family medical leave is available for employees who need to care for a child under 18 due to a school closure or for a child 18 or older who is incapable of caring for himself or herself due to a physical or mental disability.

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- Intermittent leave must be on terms agreed to by employer and employee. Without an agreement, no intermittent leave may be taken. Although a written agreement isn't required, there must be a clear and mutual understanding between the parties. It is intended that teleworking employees and employers have broad flexibility to agree on intermittent leave arrangements that balance the interests of employer and employee inasmuch as teleworking employees present no risk of spreading the virus, which furthers the government's objective of containment.
- Employees must provide documentation to employers in support of requests for paid leave. This documentation must include a signed statement containing (1) employee's name; (2) dates for which leave is requested; (3) the Covid-19 qualifying reason for the leave; and (4) a statement representing that the employee is unable to work or telework due to a Covid-19 qualifying reason.
- Depending on the qualifying reason, additional documentation may be required. This could include the name of the healthcare provider who advised self-quarantine; the name of a child being cared for; the name of the child's school or care provider; and a statement representing that no other suitable person is available for child care.

Other Covid-19 Client Alerts are available on the home page of our firm's website: www.cohenandwolf.com

With additional clarifications and information emerging on a nearly daily basis, it can be difficult to keep track of the many moving pieces that are in play. Please feel free to contact us with any questions.

ATTORNEYS

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PRACTICE AREAS

Employment & Labor

