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LABOR & EMPLOYMENT LAW ALERT

THE UNITED STATES DEPARTMENT OF LABOR ISSUES FINAL RULE REVISING THE DEFINITION OF "SPOUSE" UNDER THE FMLA

On February 23, 2015, the United States Department of Labor (USDOL) issued a Final Rule revising the definition of "spouse" under the Family and Medical Leave Act (FMLA) in light of the United States Supreme Court's decision in *United States v. Windsor*, which struck down Section 3 of the Defense of Marriage Act (DOMA) as unconstitutional. The revised definition of "spouse" now extends FMLA leave rights and job protections to eligible employees in same-sex and common-law marriages entered into in a state where those marriages are legally recognized, regardless of the state in which the employee currently works or resides. The new rule disposes of the definition of spouse based on the "state of residence" in favor of a definition based on the "place of celebration." In other words, an employee living and working in a state where same-sex or common-law marriages are not recognized would still be entitled to FMLA coverage if the employee was married in a state recognizing such marriages. Employers should update their policies, leave forms, and notice forms to comply with this change no later than March 27, 2015, which is the effective date of the revised definition.

Please do not hesitate to contact one of our Firm's employment law attorneys identified below for more information on this issue.

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This alert has also been posted to our MUNICIPAL LAW BLOG and EDUCATION LAW BLOG.