

NY Court Overturns Payroll Card Decision

June 4, 2018

Dear NBPCA Member,

The NBPCA has learned that the New York State Supreme Court, Albany County (“N.Y. Supreme Court”) has issued a [ruling](#) *In the Matter of the Application of Roberta Reardon, Commissioner of the New York Department of Labor (“N.Y. DOL”) v. Global Cash Card, Inc. (“GCC”) and the New York Industrial Board of Appeals (“Industrial Board”)*. In brief, the N.Y. Supreme Court [decision](#) “**Annulled**,” and therefore overturned, the Industrial Board’s February 16, 2017, decision which [struck down](#) the NY DOL’s final rule on the methods and payment of wages (“[Final Rule](#),” see page 8). As a result, Payroll card providers may soon find it a lot harder to offer Payroll cards in the state New York.

You may recall that in February 2017 the Industrial Board determined that the N.Y. DOL exceeded its authority by imposing requirements outside of its area of competence and expertise by attempting to regulate banking services. In its Order, the N.Y. Supreme Court’s decision states, “[t]here is nothing in the record that was before respondent IBA (Industrial Board) that provides a rational basis for the revocation of provisions related exclusively to payment of wages by check or direct deposit. Thus, the Industrial Board’s decision was “*arbitrary and capricious.*”

As a reminder, the N.Y. DOL’s final rule on the methods and payment of wages (the “**Final Rule**”) that was issued on September 7, 2016, and was scheduled to go into effect on **March 7, 2017**, before the Industrial Board issued its February 2017 decision.

It is unclear at this time if the Supreme Court’s decision will be appealed. If the Supreme Court’s decision is not appealed, then the NY DOL’s Final Rule will likely go into effect.

The NBPCA will continue to analyze the NY Supreme Court’s decision and the association has scheduled a NBPCA membership-wide conference call to review the decision and discuss potential next steps on **June 18, 2018, at 3:30 pm (EST)**. All NBPCA members are welcome to attend this conference call. To participate in the call, please dial: **(571) 317-3122; Access Code: 928-611-765**.

In the interim, if you have any questions regarding the Supreme Court's decision, please do not hesitate to contact [Eli Rosenberg](#) or [Brian Tate](#).

Sincerely,
The NBPCA Staff