

# Premier ERISA Law Firm Submits Amicus Curiae Briefs in Association Health Plan Case

*The Wagner Law Group submitted three amicus curiae briefs in support of the DOL, in the U.S. Department of Labor (Defendant-Appellant) v. State of New York*

WASHINGTON, D.C., UNITED STATES, July 8, 2019 /EINPresswire.com/ -- [The Wagner Law Group](#) recently submitted three amicus curiae briefs on behalf of multiple organizations in support of the Department of Labor (DOL), in State of New York, et al. v. U.S. Department of Labor. This case is on appeal to the United States Court of Appeals for the District of Columbia Circuit after the lower court vacated the DOL's regulation that provides flexibility for the formation of and the participation in an Association Health Plan (AHP). The briefs were prepared in cooperation with Christopher E. Condeluci, principal and sole shareholder of CC Law & Policy, in connection with his strategic affiliation with The Wagner Law Group.



Marcia Wagner, founder and Managing Director of The Wagner Law Group

The case is a challenge by New York and other States to the DOL's recently issued AHP regulation (1) permitting self-employed individuals with no employees to participate in an AHP, and (2) allowing employers in different industries to establish a geographic-based AHP (the "Final Rule"). The District Court's decision to invalidate the Final Rule was based on its conclusion that the DOL's interpretation of ERISA was unreasonable (please see the firm's [April 1, 2019 Law Alert](#) covering this case).

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The Wagner Law Group is proud to have been chosen by multiple organizations to prepare amicus briefs in this important case involving the DOL's Final Rule on Association Health Plans.”

*Marcia Wagner*

The firm's amicus curiae briefs (which can be read by [clicking here](#)), were filed on behalf of (1) the Oklahoma Insurance Department and the Montana State Auditor, (2) The Coalition to Protect and Promote Association Health Plans joined with AssociationHealthPlans.com (the "Coalition"), and (3) the National Association of REALTORS® and affiliates (the "REALTORS®"), and all take the position that the Final AHP Rule is a reasonable interpretation of ERISA.

The brief for the States offers reasons why the new "geographic-based" AHP criteria will create a sufficiently strong connection to establish the "commonality" needed for an AHP to be treated as

a single plan, particularly because the proximity of the employers will also aid in creating the required “genuine organizational relationship,” when combined with the required common “control” of the governing board that participating employers of an AHP must have.

The brief for the Coalition challenges the assumptions made by the States that oppose the Rule, about the legal and practical consequences of the Rule. This brief notes that those States already have existing laws that prohibit certain types of AHPs, and have broad authority to continue to regulate AHPs within their State, while many other States already have implemented laws to work with the DOL Final Rule.

The brief for the REALTORS® explains that there is a statutory basis for the DOL to deem a self-employed individual with no employees to be eligible to participate in an ERISA-covered AHP, and that deeming these self-employed individuals to be eligible to participate in an AHP is reasonable in light of changing market dynamics and a new and improved regulatory environment.

The Wagner Law Group:

The Wagner Law Group has been dedicated to the highest standards of integrity, excellence and thought leadership for over two decades and is considered to be the nation’s preeminent ERISA and employee benefits law firm. With 35 attorneys in nine offices, it provides unparalleled legal advice to its clients, including large, small and nonprofit corporations as well as individuals and government entities nationwide and in several foreign countries. The firm’s attorneys combine many years of experience in their fields of practice and include those who are AV rated by Martindale-Hubbell and have been named to the prestigious Super Lawyers list for 2019. The Wagner Law Group is recognized by U.S. News and World Report as a Tier 1 Best Law Firm in the areas of ERISA and employee benefits and is certified as a woman-owned and operated business by the Women’s Business Enterprise National Council.

Ari Sonneberg  
The Wagner Law Group  
+1 617-357-5200  
[email us here](#)

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