



111 WASHINGTON AVE, SUITE 501
ALBANY, NEW YORK 12207

WWW.FWC-LAW.COM

PHONE: (518) 436-0786
FAX: (518) 427-0452

The Week That Was

01-05-18

1. New York Is Open For (Litigation) Business

Our Spin:

“Attention. Calling all lawyers.” At his “Excelsior-Ever Upward,” State of the State address on Wednesday, New York Governor Andrew Cuomo took a direct shot at President Trump and his colleagues in Washington, saying he will sue the federal government over... just about anything! The tax plan, immigration, abortion, the environment, health care. You name it, Cuomo’s ready to fight for it. Anything for his fellow New Yorkers. Cuomo also knows the old saying - a lawyer that represents himself is a fool for a client. Unfortunately for Attorney General Schneiderman, it appears he will be too busy to run in a primary.

The Story:

Earlier this week Governor Cuomo delivered his State of the State address that seemed designed to improve his liberal cred for his re-election campaign while also possibly paving the way for a presidential run in 2020. Cuomo spent a good chunk of time taking aim at Washington, vowing he will sue the federal government over the recently approved tax plan, saying it unconstitutionally burdens New Yorkers.

“They’re now robbing the blue states to pay for the red states ... it is an economic civil war, and make no mistake, they are aiming to hurt us,” Cuomo said. “We believe it is illegal and we will challenge it in court as unconstitutional the first federal double-taxation in history, violative of states’ rights and the principle of equal protection.”

The Governor also spoke of shifting the state from income taxes to a payroll tax, which would remain

deductible against federal income but didn’t provide much more, saying the details would be released later this month.

On the New York front, Cuomo introduced a suite of policies to combat sexual harassment. He proposed to prohibit confidentiality clauses in sexual harassment or assault settlements brokered by public entities, and hopes to standardize harassment and reporting processes. He would also require companies doing business with the state to disclose this information.

The State’s criminal justice system was another area the Governor promised change. He wants to eliminate cash bail for many lower-level offenses, saying in a written message that the current system is “disproportionately punishing those of limited means.” He also wants to make it easier for defense attorneys to learn about the cases against their clients and is proposing legislation to speed up trials. “Our lady justice is still not color-blind and her scales are still not balanced,” Cuomo said. “Too often, if you can make bail, you are set free and if you are too poor, you are punished.”

[NY Daily News](#)
[Newsday](#)

2. Can’t Anyone Here Die on Time

Our Spin:

How are we supposed to predict the unpredictable? For example, let’s take a look at our good friends, the Cemeterians. Are they supposed to know when the dead will come calling? How are they supposed to predict when

they're going to get a call about a burial? The actual convening of the hearing in the midst of a bomb cyclone was ironic. The only thing that is certain is that the proposed regulations will be a bomb dropped on business throughout New York State resulting in lost jobs.

The Story:

On Thursday morning at the Capitol, the Senate Committee on Commerce, Economic Development, and Small Business and the Senate Administrative Regulations Review Commission held a joint hearing on the New York State Department of Labor Proposed Rule Making Employee Scheduling (Call-In Pay) regulations. The proposed call-in pay regulations concerns employee scheduling practices, including just in time scheduling and on-call scheduling, which are common practices that allow employers to cancel or schedule shifts hours before or after the start of a shift.

The regulations apply to all industries and occupations that are covered by the Minimum Wage Order for Miscellaneous Industries and Occupations (12 NYCRR Part 142). Current law already requires four hours of call-in pay at the minimum wage when an employee reports to work and is sent home early.

Several GOP state senators at the invitation-only hearing, teed off on the administration of Governor Cuomo for proposing the rules last fall. Heavy criticism came from Senator George Amedore Jr., who has a home-building business. He said the rules came from "faceless bureaucrats" in "ivory towers ... who ought to go to the classroom called reality of life." He accused the Governor of "attacking" business in the state.

There was testimony from a wide range of business trade associations and specific industries including, child care, long term care, snow removal, car wash, personal assistance and a gas station.

Brian O'Malley of Consumer Directed Personal Assistance Association of New York State (CDPA) was one of the testimonials. He began by asserting his organization's support for increased pay and benefits for personal assistants. He then went on to describe how these proposed rule changes would do nothing but hurt them and the patients who they serve.

He explained the CDPA is a Medicaid-supported organization. Medicaid law prohibits the duplication of services and corresponding payment. As such, these organizations would not be able to compensate employees under the proposed rule changes for hours not worked. This is in addition to the enormous amount of money that would need to be spent to create new scheduling, billing and record keeping systems. Mr. O'Malley concluded that these rule changes would effectively lead to the demise of CDPA, leaving New York's most vulnerable in a

precarious situation, and costing New York State an additional \$100 million in Medicaid funding.

[Times Union](#)

3. The Big Bad Wolf

Our Spin:

Optimism faded away faster than New Years' diet resolutions for New York Republicans this week with the news Businessman Harry Wilson will not challenge Governor Cuomo this year. Republicans, having not even fully digested the Wilson announcement were dealt another blow just three days later when up and comer Dutchess County Executive Marcus Molinaro also took a pass against a Cuomo challenge. It appears the house that Cuomo built will not be blown down in 2018.

The Story:

Harry Wilson, a businessman who unsuccessfully ran for state comptroller in 2010, and was widely seen as the Republicans' top recruit for Governor of New York, announced early in the week he was withdrawing as a candidate in the race. He registered the site www.wilsonforgovernor.com in May 2017 and told Republican officials that he would invest \$10 million of his own fortune into his campaign. He repeatedly pinged New York and national strategists about his pathway, but eventually pulled the plug citing commitment to family.

To make matters worse for the state Republican Party, Dutchess County Executive Marc Molinaro announced Thursday that he will not run for governor either. Molinaro, 42, is a former state assemblyman and has served as Dutchess County Executive since 2012. He was re-elected to his current position in 2015.

His decision comes after a months-long exploratory effort and the formation of a campaign committee. "After much discussion, contemplation and prayer, I have made the decision that at this time I will not be a Republican candidate for governor," Molinaro said. "While I believe that state government can be a servant of the people when run well and with integrity, it's just not the right time for me to seek the governorship."

Now New York Republicans are headed into the midterm elections without a clear leader of their own for the top of the ticket. Whoever does run faces the financial might of Governor Cuomo, who had banked more than \$25 million for his run as of mid-2017 and is expected to report having millions of dollars more in the coming weeks.

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