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Contact: **Mark S. Roy**, Public Relations Manager
(212) 218-5272, mroy@seyfarth.com

Boston-Based Chair of Seyfarth Shaw's Wage and Hour Practice Group Comments on Passage of S. 1059

"The cost of doing business in Massachusetts may have just gone up exponentially."

Boston, MA (April 14, 2008)—Seyfarth Shaw LLP, one of America's leading full-service law firms, today released the following statement from Richard L. Alfred, Chair of the Firm's Wage and Hour Litigation Practice Group:

"Despite Governor Patrick's initial decision to return S. 1059 to the Massachusetts Legislature with recommended amendments, the bill—which mandates triple damages for any wage and hour violation—became the law of the land in the Commonwealth of Massachusetts. The bill became law without the governor's signature ten days after being presented, without inclusion of any amendments, by the state's legislators. This legislation impacts all employers with employees in Massachusetts.

"Seyfarth Shaw has taken a leadership role in advising businesses, lawmakers and the governor about the severe impact that passage of S. 1059 will have on the economic wellbeing of the state's employers and overall economic growth. We believe that S. 1059 creates incentive for plaintiffs attorneys from around the country to bring their wage and hour class action lawsuits in Massachusetts because—by passing this law—the Commonwealth guarantees them triple their customary paycheck when employers have misinterpreted Massachusetts' complex laws governing wages, regardless of whether an employer acted intentionally or not.

"Wage and hour issues confront all businesses regardless of industry. For example, a misjudgment as to whether someone satisfies the common exemptions from overtime subjects employers to potential exposure under wage and hour law. A more complex illustration of the lack of clarity, and therefore risk to employers, concerns retail settings. Some grocery stores now have banks in them and some hotels are home to stores—employers have to be incredibly astute when determining whether theirs is a retail business and if they are then affected by Massachusetts' arcane blue laws. Even something as seemingly straightforward as paying wages (including vacation pay and earned commissions) can trip up employers because of Massachusetts' strict requirements for when wages must be paid to current and terminated employees.

"With the passage of S. 1059, the cost of doing business in Massachusetts may have just gone up exponentially. All employers with employees in Massachusetts would be well advised to review their ranks and make sure to the best of their ability that they are in compliance with the many nuances of the state's wage and hour laws."

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