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# GLASER & WEINER, LLP

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## CLIENT ALERT

October 2009

### RECENT CHANGE TO NEW YORK LABOR LAW TAKES EFFECT

Effective October 26, 2009, an amendment to Section 195 of the New York Labor Law requires employers operating in New York to adhere to new notice and recordkeeping requirements when hiring new employees. The new law applies only to employees hired on or after October 26, 2009.

For new employees hired on and after October 26, employers must provide written notice advising the employee of:

- ◆ Their rate of pay and the regular pay day designated by the employer; and
- ◆ For all employees eligible for overtime compensation, the employee's regular hourly rate and overtime rate of pay.

In addition, employers also must obtain a written acknowledgement from employees confirming receipt of the written notice. The written acknowledgement requirement and the notice of the overtime rate were added by the amendment to the law. While the new law requires that the written acknowledgment conform to standards set by the Commissioner of Labor, the Commissioner has yet to issue regulations or a model form. The required notice information may be incorporated into employee offer letters or employment agreements that are signed by a new employee. Copies of the offer letters and agreements should be retained by employers.

Section 195 also requires employers to:

- ◆ Notify employees of any changes in their pay days prior to the date of the changes;
- ◆ Furnish each employee with a statement with every payment of wages, listing gross wages, deductions and net wages;
- ◆ Establish, maintain and preserve for not less than three years, payroll records showing the hours worked, gross wages, deductions and net wages for each employee;
- ◆ Notify employees of the employer's policy on sick leave, vacation, personal leave, holidays and hours either in writing or by public posting; and
- ◆ Notify any employee terminated from employment, in writing within 5 days of termination, of the exact date of termination, as well as the exact date of cancellation of employee benefits connected with the termination. Failure to notify an employee of cancellation of accident or health insurance subjects an employer to penalties, including a fine of up to \$5,000 paid to the Commissioner of the New York State Department of Labor, as well as potential liability in a civil action brought by the employee in which dam-

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ages may include reimbursement for medical expenses that were not covered by the insurer because the employee did not receive appropriate notice.

To ensure compliance with the new written notice requirements, employers should:

- ◆ Review material given to new hires and, if necessary, prepare a standard written form that advises new hires of their pay rate, overtime rate, and pay date, and include a section for a signed acknowledgement by the employee, to be maintained in the employer's records.

- ◆ As applicable, add these provisions and an acknowledgment form to offer letters and employment agreements.

- ◆ Require new hires to sign and return the written notice in a timely manner.

If you have any questions about the new law, please contact Michael J. Weiner at 516.304.5858 or [mweiner@glaserweiner.com](mailto:mweiner@glaserweiner.com).

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