

## REMINDER

### **New York State Wage Theft Prevention Act Annual Notice and Acknowledgement of Employee Wage Rate Now Due**

By Bennett Pine

In the *January and December 2011 Employment Law Insider Alerts* we informed employers about amendments to the New York State Labor Law that require employers to provide written notice to all newly hired employees of 1) rate of pay, 2) regular paydays and 3) the overtime rate of pay, if applicable. Newly hired employees also are required to sign a statement acknowledging receipt of the written notice, and the statement is to be maintained by the employer for at least six years.

#### **It's Now Time for the Annual Wage Notice to Current Employees**

As part of the Wage Theft Prevention Act, which became effective April 9, 2011, Section 195.1 of the New York State Labor Law now requires all private sector employers to provide, on or before February 1 of each year, notice of the following to all current employees:

1. the employee's rate or rates of pay;
2. the overtime rate of pay, if the employee is covered by overtime regulations;
3. the basis of wage payment (per hour, per shift, per week, commission, etc.);
4. any allowances the employer intends to claim as part of the minimum wage including tip, meal and lodging;
5. the regular payday;
6. the employer's name, and names under which the employer does business (DBA);
7. the physical address of the employer's main office or principal place of business and, if different, the employer's mailing address; and
8. the employer's telephone number.

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**Bennett Pine** is a shareholder in Anderson Kill's New York and

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The information appearing in this newsletter does not constitute legal advice or opinion. Such advice and opinion are provided by the firm only upon engagement with respect to specific factual situations.

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## When

The written notice is required between January 1 and February 1, 2013. Employers also must 1) have the employee sign a statement acknowledging receipt of the notice, in English (or the employee's primary language), 2) must keep the signed and dated notice for six years and 3) must provide a copy to the employee.

## How

Employers have the option of providing the notice electronically, but workers must be able to access, acknowledge and print a copy of the notice for their records on a workplace-provided computer.

**Template Forms Available<sup>1</sup>:** The [New York State Department of Labor](#) has prepared notice and acknowledgement form templates for a variety of common types of worker classifications/pay agreements, including a number of dual-language versions (e.g., Spanish, Russian, Chinese, Korean, Polish and Creole) of the notice and acknowledgement form. These are available on the [New York State Department of Labor website](#). We have provided links to three of the most common template forms here: 1) [hourly employees](#), 2) [salaried employees working up to 40 hours per week](#) and 3) [salaried employees exempt from overtime](#).

## Penalties

- The wage notice requirement is mandatory and may not be waived by employees.
- Employers that fail to provide a proper wage notice may be assessed fines up to \$50 per week per employee, to a cap of \$2,500 per worker.
- Retaliation against complaining employees in the form of termination, suspension, transfer, reduction in pay or demotion also is prohibited and is punishable by fines of up to \$10,000 plus liquidated damages.

*Note: Please contact the author, [Bennett Pine](#), if you have any questions or require additional information on the annual employee wage notice required by New York law. ▲*

<sup>1</sup>Form website addresses:

Hourly employees: <http://www.labor.ny.gov/formsdocs/wp/LS54.pdf>; salaried employees working up to 40 hours per week: <http://www.labor.ny.gov/formsdocs/wp/LS56.pdf>; and salaried employees exempt from overtime: <http://www.labor.ny.gov/formsdocs/wp/LS59.pdf>.

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