

REMINDER

New York State Labor Law Now Requires Annual Notice and Acknowledgement of Employee Wage Rate

By Bennett Pine

In the *Autumn 2009 Employment Law Insider Alert* 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.

Wage Notice to Current Employees

As part of the Wage Theft Prevention Act, which became effective April 9, 2011 (see *Employment Law Insider Alert, January 2011*), Section 195.1 of the New York State Labor Law now also 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.

ANDERSON KILL & OLICK, P.C.
1251 Avenue of the Americas
New York, NY 10020
(212) 278-1000 Fax: (212) 278-1733

ANDERSON KILL & OLICK, P.C.
One Gateway Center, Suite 1510
Newark, NJ 07102
(973) 642-5858 Fax: (973) 621-6361

ANDERSON KILL & OLICK, P.C.
1600 Market Street, Suite 2500
Philadelphia, PA 19103
(267) 216-2700 Fax: (215) 568-4573

ANDERSON KILL & OLICK, P.C.
1055 Washington Boulevard, Suite 510
Stamford, CT 06901
(203) 388-7950 Fax: (203) 388-0750

ANDERSON KILL WOOD & BENDER, P.C.
864 East Santa Clara Street
Ventura, CA 93001
(805) 288-1300 Fax: (805) 288-1301

ANDERSON KILL & OLICK, L.L.P.
1717 Pennsylvania Avenue, Suite 200
Washington, DC 20006
(202) 416-6500 Fax: (202) 416-6555

www.andersonkill.com





who's who

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

Newark offices and is chair of the firm's employment & labor group. Mr. Pine has broad-based labor and employment law experience and regularly plays a hands-on role offering preventative maintenance advice and counseling to employers in the full range of legal issues affecting the workplace.

bpine@andersonkill.com
(212) 278-1288 | (973) 642-5006

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When

The first such written notice is required between January and February 1, 2012. 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.

Template Forms Available: 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 of the notice and acknowledgement form. These are available on the [New York State Department of Labor website](#). We have provided links¹ 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](#).

How

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

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: We will continue to monitor developments as well as additional forms and guidelines developed by the New York State Department of Labor. Please contact the author, [Bennett Pine](#), if you have any questions or require additional information. ▲

¹Form 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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