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***MEMORANDUM***

**DATE:** March 5, 2014

**FROM:** Kane Kessler, P.C.  
Labor and Employment Law Department

**RE:** Amendments to New York City Sick Leave Law

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Last July, we advised about the enactment of the New York City Earned Sick Time Act (“Act”), a law that would require New York City employers to provide employees with five (5) sick days each year, accrued as described below. (The memorandum distributed last July can be accessed through the following link:

[http://www.kanekessler.com/files/New\\_York\\_City\\_Sick\\_Leave\\_Act.pdf](http://www.kanekessler.com/files/New_York_City_Sick_Leave_Act.pdf))

On February 26, 2014, about a month before the Act’s effective date, the City Council passed a bill which would vastly expand the law’s coverage. The bill is on its way to Mayor De Blasio’s desk, and it is expected that the Mayor, who has been a strong advocate of providing sick time coverage to more New Yorkers, will sign the bill. The bill sets forth several significant amendments to the original Act which was passed last year. These changes are outlined below.

- **Coverage:** Initially, the Act required all employers (with the exception of certain manufacturing employers) with more than 15 employees to provide a minimum number of *paid* sick days, and all employers with fewer than 15 employees to provide a minimum number of *unpaid* sick days. This threshold has been lowered to five (5) employees for all employers, so employers with more than five (5) employees would now be obligated to abide by the *paid* sick time requirement. Employers with fewer than five (5) employees would still be required to provide a minimum number of *unpaid* sick days. Sick time under the Act, whether paid or unpaid, will accrue at the rate of one hour per every 30 hours of work, up to a maximum of 40 hours (typically 5 days) per calendar year.
- **Use of Sick Leave:** Employees would now be able to use earned sick time to care for grandchildren, grandparents, and siblings, in addition to the other family members already listed in the original Act (children, spouses, domestic partners, parents, in-laws,

and parents of domestic partners).

- **Notice Posting:** As of the effective date of the Act, Employers must provide employees with a notice describing their rights under the Act in English and in the primary language spoken by that employee (provided that the Department of Consumer Affairs has created a notice in said language) at the commencement of employment. Employers may also post such notice in a conspicuous location accessible to employees. Sample notices will be accessible through the Department of Consumer Affairs' website. A representative from the Department has confirmed that although these notices are not yet available, they will be available prior to April 1, 2014.
- **Documentation:** Employers would be required to retain relevant documents for a period of three (3) years (increased from two (2) years).
- **Complaints:** The window for filing a complaint with the department for violations of the Act would be extended to two (2) years (increased from 270 days).
- **Civil Penalties:** The Department of Consumer Affairs ("Department") has the authority to enforce the provisions of the Act and may impose civil penalties for violations. The civil penalty for failure to provide proper notice under the Act is \$50 per employee. If an employee is not compensated for sick time, the Department can impose a penalty of three times the unpaid wages plus \$250 per violation. Penalties for failure to provide sick leave, retaliation and unlawful discharge range from \$500 to \$2,500 per violation, plus full back pay and possible reinstatement in the event of discharge. Penalties for other violations of the Act range from \$500 to \$1,000.
- **Effective Date:** The effective date of April 1, 2014 would apply to all employers, including employers of domestic employees. The Act passed last year staggered the effective date to allow smaller employers more time to comply with the provisions. However, the new law would establish a six (6) month grace period during which employers with fewer than 20 employees (including full-time, part-time, and temporary employees) would not be subject to civil penalties for inadvertent violations of the law.

All other provisions set forth by the original Act would remain unchanged. Because of the rapidly approaching effective date, employers should review their policies to ensure compliance with the law. If you have any questions about the Earned Sick Time Act, please do not hesitate to contact [David R. Rothfeld](#), [Judith A. Stoll](#), [Robert L. Sacks](#), [Lois M. Traub](#), [Niki J. Franzitta](#) or [Alexander Soric](#) of the Firm's Labor & Employment practice group.