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MEMORANDUM

DATE: October 16, 2012
TO: New York Clients
FROM: Kane Kessler, P.C.
Labor and Employment Law Department
RE: Election Day

As a reminder, under Article 3, Title 1, Section 3-110 of the New York State Election Law, employees are allowed to take “sufficient time” on election day as is necessary to allow them to vote. It has been determined that four consecutive non-working hours while the polls are open is “sufficient.” However, if the employee has four consecutive free hours either between the opening of the polls (6 a.m.) and the beginning of work or between the end of work and the closing of the polls (9 p.m.), the employer is not required to provide any additional time off. Employers are only required to pay employees for up to two hours of their time in the event that there is insufficient time.

Employers are required to post the provisions of this section in a conspicuous location where it can be seen as employees come or go to their place of work not less than ten (10) working days before every election. A copy of this section is attached for this purpose.

If you have any questions, please do not hesitate to contact David R. Rothfeld, Judith A. Stoll, Stephen Steinbrecher, Niki J. Franzitta, Lois M. Traub, Alexander Soric or Robert L. Sacks.

NOTICE TO EMPLOYEES:

NEW YORK STATE ELECTION LAW, ARTICLE 3, TITLE 1

§ 3-110. Time allowed employees to vote.

1. If a registered voter does not have sufficient time outside of his working hours, within which to vote at any election, he may, without loss of pay for up to two hours, take off so much working time as will, when added to his voting time outside his working hours, enable him to vote.
2. If an employee has four consecutive hours either between the opening of the polls and the beginning of his working shift, or between the end of his working shift and the closing of the polls, he shall be deemed to have sufficient time outside his working hours within which to vote. If he has less than four consecutive hours he may take off so much working time as will when added to his voting time outside his working hours enable him to vote, but not more than two hours of which shall be without loss of pay, provided that he shall be allowed time off for voting only at the beginning or end of his working shift, as the employer may designate, unless otherwise mutually agreed.
3. If the employee requires working time off to vote he shall notify his employer not more than ten nor less than two working days before the day of the election that he requires time off to vote in accordance with the provisions of this section.
4. Not less than ten working days before every election, every employer shall post conspicuously in the place of work where it can be seen as employees come or go to their place of work, a notice setting forth the provisions of this section. Such notice shall be kept posted until the close of the polls on election day.