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MEMORANDUM

**DATE:** May 7, 2010

**TO:** Clients

**FROM:** Kane Kessler, P.C.  
[Labor and Employment Law Department](#)

**RE:** New York State Labor Law –  
New Requirement for Written Notice of Wages for New Hires

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As you are aware from our previous memoranda, effective October 26, 2009, all employers are required to provide new hires with a written notice of their hourly rate of pay, overtime rate of pay, if applicable, and the regular pay date. If the employee is exempt from overtime, the form must so state. The written notice must be acknowledged by the employee and one copy given to the employee and the other retained by the employer.

Although the Department of Labor does not require that employer use a particular form for the notice, in recent regulations it has specified that if an employee is exempt from overtime, the notice must not only state that the employee is exempt but must also state the basis for the exemption (i.e., executive, administrative, professional, computer or outside sales person exemption). This is a new requirement that is not contained in the statute itself.

We have revised the model form we sent you in November 2009 and enclose a form that complies with the new requirement in the regulations that the basis of the exemption be stated.

Determining whether an employee is exempt and which exemption applies is can be very difficult. We enclose herewith an additional copy of a memorandum we distributed in October 2008, discussing exempt status under the Fair Labor Standards Act and describing each type of exemption. If you have any uncertainty about whether an employee is exempt and which exemption applies, please do not hesitate to contact us for advice.

If you have any questions, please contact [David Rothfeld](#), [Judith A. Stoll](#), [Lois Traub](#), [Niki Franzitta](#), [Alexander Soric](#) or [Robert Sacks](#).

**NOTICE OF NEW HIRE WAGES AND PAY DATE**

Your rate of pay upon hire is: \$\_\_\_\_\_

The designated regular pay day is: \_\_\_\_\_

\_\_\_\_ You are eligible for overtime pay.

\_\_\_\_ You are exempt from overtime pay under the (executive, administrative, learned professional, creative professional, computer, outside sales) (circle one) exemption.

If you are eligible for overtime pay:

Your hourly rate of pay is: \$\_\_\_\_\_

Your overtime rate of pay is: \$\_\_\_\_\_

**ACKNOWLEDGMENT:**

By signing below, I acknowledge receipt of this Notice of Wages and Pay Day.

\_\_\_\_\_  
Employee

\_\_\_\_\_  
Witness

Dated: \_\_\_\_\_