

LABOR &
EMPLOYMENT

Laurence B. Oppenheimer, Chair
716.566.1575
loppenhe@hblaw.com

Stuart H. Brody

Susan M. Curtin

James P. Domagalski

Anne Burak Dotzler

James P. Evans

Thomas J. Hanifin

Christopher J. Harrigan

Robert P. Heary

Todd V. Lamb

Robert J. Lanza

Kathryn A. Lisandrelli

Carolyn A. Marcotte

Raymond N. McCabe

Scott M. Pechaitis

Alan R. Peterman

Joseph P. Pylman

Scott P. Rogoff

Margaret Surowka Rossi

Brian E. Whiteley

New Wage and Hour Law Requires Written Acknowledgment of Notice of Rate of Pay, Regular Payday, and Overtime Rate of Pay

New York State Governor David Patterson signed into law an Act that requires employers to provide new hires with written notice of the rate of pay, hourly overtime rate of pay, and regular pay date. The law, which amends New York Labor Law § 195, went into effective on October 26, 2009 and applies to all employees hired on or after that date.

Previously, New York Labor Law § 195 only required employers to verbally notify employees at the time of hire of their rate of pay and regular pay date. As now amended, § 195 requires that such notice be put in writing and include the applicable overtime rate of pay for all non-exempt employees. Moreover, the notice must conform to requirements set by the New York State Department of Labor. In that regard, the New York Department of Labor's website (<http://www.labor.state.ny.us>) contains the form for employers to use.

The purpose of the new law is to allow employees to more easily determine whether their paychecks correctly reflect the rates of pay their employers agreed to at the time of hiring. The new law will also make it easier for an employee to make a claim against the employer for unpaid wages or overtime pay.

As such, all employers in New York State should review their offer letters, new-hire paperwork, and any employment manuals to ensure compliance with the new requirements. Additionally, employers should ensure that all employees are properly classified for overtime purposes and that all hours are properly tracked. If hours are not properly tracked or employees are misclassified, the potential for liability under New York Labor Law is significant. ■

If you require further information regarding the information presented in this Legal Alert and its impact on your organization, please contact any of the members of the Practice Area listed on this Alert.