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Client Bulletin #452

Don't Forget to Ring in the New Year with New York State's Newest Employee "Notification" Requirement

By Rob Bernstein and John MacDonald
Princeton Office

Mark your calendars - the New Year brings new employee notification requirements, courtesy of New York's legislature and its former Governor, David Paterson. The dubiously-named "Wage Theft Prevention Act," which became effective April 9, 2011, requires all private sector employers with New York employees (regardless of how many) to provide those employees with a "pay notice" at the time of hire and, subsequently, on a yearly basis. The first "yearly" notice period begins January 1, 2012. Thus, employers have from January 1, 2012 through February 1, 2012 to provide a "pay notice" to employees, which must contain the following:

- Rate of pay (including overtime, if applicable)
- Method of payment (hourly, shift, day, week, commission, etc.)
- Regular pay day
- Official name of the employer, and any "d/b/a's"
- Address and phone number of the employer's main office or principal location
- Any allowances taken as part of the employee's wage (for example, tip, meal and lodging deductions).

The notice may be provided to employees in paper or electronic form. If the employer elects to provide the notice electronically, there must be a method to confirm the employee's receipt of the notice, and the employees must be able to print a copy of the notice.

This annual notice requirement is not a one-time event. Employers must remember to distribute such notices every year between January 1 and February 1, even if the information has not changed from the prior year. The Act further requires that the notices be kept by the employer for six years and available for inspection by the Department of Labor. Civil penalties for failing to provide the required notice start at \$50 per employee per week for the first violation, so ignore New York's latest administrative hassle at your peril.

If you have any questions about the Wage Theft Prevention Act, please contact any member of Constangy's Princeton, New Jersey, Office, or the Constangy attorney of your choice.

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