

## **NYDOL Advises That All New Employees Must Sign Its Wage Rate Notice Acknowledgement Form**

**November 17, 2009**

Effective October 26, New York Labor Law Article 6, Section 195(1) requires employers to notify all newly hired employees at the time of hiring, in writing, of their regular rate of pay and regular pay day, and, for nonexempt employees, their hourly and overtime rates of pay.

Employers are also required to obtain from each new hire a written acknowledgment of receipt of this notice, copies of which must be provided to the employee and kept by the employer for six years.<sup>1</sup>

On October 28, the New York State Department of Labor (NYDOL) published an official form titled “Labor Law Section 195(1) Notice and Acknowledgement of Wage Rate and Designated Payday Hourly Rate Plus Overtime.”

Although this new form appears to apply only to “hourly” employees, the NYDOL has informally stated that it expects employers to use the form for **ALL** categories of employees hired on or after October 26, 2009.<sup>2</sup> At the same time, NYDOL acknowledged that the new form may not fit all employee circumstances, and informally advised us that it is in the process of preparing additional forms for other categories of employees (e.g., salaried, nonexempt employees, commissioned employees). Those forms will be posted on the NYDOL website shortly. Until those additional forms are posted, the NYDOL is taking the position, stated informally in conversations we have had with representatives of the department, that employers must use the above-mentioned Notice and Acknowledgement Form for all new employees.

Prior to the publication of the Notice and Acknowledgment Form, many employers complied with the statute by modifying their offer letters to contain the required content and acknowledgment. Unless the NYDOL reverses its currently stated position, it appears employers will need to again change their practices to use the NYDOL form(s).

Finally, the NYDOL has informally advised us that the Notice and Acknowledgment Form may not be

---

1. Our previous LawFlash on this topic, issued on September 3, 2009, is available online at [http://www.morganlewis.com/pubs/LEPG\\_PayInfoWrittenNotice\\_LF\\_03sept09.pdf](http://www.morganlewis.com/pubs/LEPG_PayInfoWrittenNotice_LF_03sept09.pdf).

2. The Notice and Acknowledgement Form may be accessed by visiting the NYDOL’s website at [http://www.labor.state.ny.us/workerprotection/laborstandards/PDFs/LS\\_52\\_Hourly\\_Rate\\_Plus\\_Overtime.pdf](http://www.labor.state.ny.us/workerprotection/laborstandards/PDFs/LS_52_Hourly_Rate_Plus_Overtime.pdf).

electronically signed. This seemingly is a departure from prior instances (such as commissioned salespersons agreements) where the NYDOL has informally advised us that electronic signatures are permissible.

We will provide additional information about the Notice and Acknowledgment Forms, as well as the related guidelines, when they are published by the NYDOL.

Morgan Lewis's Labor and Employment Practice regularly advises employers with respect to all aspects of federal and state wage and hour laws.

If you would like further information regarding the issues raised in this LawFlash, please contact either of the following Morgan Lewis attorneys:

**New York**

Christopher A. Parlo  
Samuel S. Shaulson

212.309.6062  
212.309.6718

[cparlo@morganlewis.com](mailto:cparlo@morganlewis.com)  
[sshaulson@morganlewis.com](mailto:sshaulson@morganlewis.com)

**About Morgan Lewis's Labor and Employment Practice**

Morgan Lewis's Labor and Employment Practice includes more than 300 lawyers and legal professionals and is listed in the highest tier for National Labor and Employment Practice in *Chambers USA 2009*. We represent clients nationwide in a full spectrum of workplace issues, including drafting employment policies and providing guidance with respect to employment-related issues, complex employment litigation, ERISA litigation, wage and hour litigation and compliance, whistleblower claims, labor-management relations, immigration, occupational safety and health matters, and workforce change issues.

**About Morgan, Lewis & Bockius LLP**

With 22 offices in the United States, Europe, and Asia, Morgan Lewis provides comprehensive transactional, litigation, labor and employment, and intellectual property legal services to clients of all sizes—from global Fortune 100 companies to just-conceived startups—across all major industries. Our international team of attorneys, patent agents, employee benefits advisors, regulatory scientists, and other specialists—more than 3,000 professionals total—serves clients from locations in Beijing, Boston, Brussels, Chicago, Dallas, Frankfurt, Harrisburg, Houston, Irvine, London, Los Angeles, Miami, Minneapolis, New York, Palo Alto, Paris, Philadelphia, Pittsburgh, Princeton, San Francisco, Tokyo, and Washington, D.C. For more information about Morgan Lewis or its practices, please visit us online at [www.morganlewis.com](http://www.morganlewis.com).

This LawFlash is provided as a general informational service to clients and friends of Morgan, Lewis & Bockius LLP. It should not be construed as, and does not constitute, legal advice on any specific matter, nor does this message create an attorney-client relationship. These materials may be considered Attorney Advertising in some states. Please note that the prior results discussed in the material do not guarantee similar outcomes.

© 2009 Morgan, Lewis & Bockius LLP. All Rights Reserved.