



Legal Alert: New York's Wage Theft Prevention Act Requires Notice to Employees

1/27/2012

Executive Summary: On or before February 1, 2012, New York employers must provide notice to employees as required by the state's Wage Theft Prevention Act (WTPA).

New York-based employers should be aware that the WTPA requires them, on or before February 1, 2012, and on February 1 of every year after that, to provide their employees with a written notice providing the following information:

- the rate or rates of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or other;
- for all employees not exempt from overtime compensation under New York law, the employee's regular hourly rate and overtime rate of pay;
- allowances, if any, claimed as part of the minimum wage, including tip, meal, or lodging allowances;
- the regular pay day designated by the employer in accordance with New York Labor law;
- the name of the employer;
- any "doing business as" names used by the employer;
- the physical address of the employer's main office or principal place of business, and a mailing address if different; and
- the telephone number of the employer.

This information must also be provided to newly-hired employees at the time they are hired.

The employer must have the employee sign the notice, acknowledging receipt. If the employee refuses to sign the notice, the employer should still give the notice to the employee and note the employee's refusal to sign. The employer must retain a copy of the signed notice for six years.

The notice must be in English and in the language identified by the employee as his or her primary language, if the New York Department of

Labor (DOL) provides a translation. The DOL currently offers translations in the following languages: Spanish, Chinese, Haitian Creole, Korean, Polish and Russian. The employer may use its own notice or use the templates provided by the DOL available at: <http://labor.ny.gov/formsdocs/wp/ellsformsandpublications.shtm>.

The law applies to all private-sector New York-based employers; however, employees who work in states other than New York are not covered by the law. Federal, state and local government employers are not covered, but charter schools, private schools, and not-for-profit corporations are covered, since they are not public entities.

Employers may be subject to penalties of \$50 per week per employee if the notice is not provided.

The wage theft law also includes other provisions protecting employees. Attorneys in Ford & Harrison's New York City office can provide you with guidance on this law and other aspects of employment law unique to employers based in New York.

If you have any questions about this Alert or other labor or employment related issues, please contact Philip Davidoff, pdavidoff@fordharrison.com or Mark Konkel, mkonkel@fordharrison.com, who are both partners in our New York City office, or the Ford & Harrison attorney with whom you usually work.