

# ClientAlert

November 13, 2009

## NY Employment Law Update -- NY Department of Labor Mandates Use of Official Form for New Hires

In a recent client alert, we addressed the new requirement under the New York State Labor Law that employers provide written notice to new employees of their rate of pay and, where applicable, rate of overtime pay, as well as notice of their regular pay day. The Labor Law also requires that employers obtain signed acknowledgements of this written notice from employees, and retain the acknowledgements for at least six years. These new requirements became effective October 26, 2009 and apply to all employees hired in New York State on or after that date. (To view a copy of our prior client alert, [click here](#).)

The New York State Department of Labor (the "NY DoL") has recently issued guidance under the new law. While it was initially believed that employers would be able to comply with the new law by creating their own forms or by incorporating the required information into their existing forms of offer letters or employment agreements, ***the NY DoL has now taken the position that to comply with the new law employers must use the form of written notice issued by the NY DoL.*** That one-page form is available at the NY DoL's website and can be accessed by [clicking here](#). According to the NY DoL, the form must be completed by the employer, provided to the new hire, signed by the new hire, and returned to the employer before the new hire performs any work for the employer.

Employers should immediately begin to use this mandatory form for all new hires in New York State and should incorporate the form into the "first day of work" packet that most employers provide to their new employees. The form, as currently drafted, is designed for employees with a fixed, hourly, regular rate of pay. Given that not all employees are paid in that manner, and some non-exempt employees may be entitled to varying rates of overtime pay, the NY DoL has indicated that in the near future it will publish others forms (for example, for employees who work on a commission basis, who are paid at an annual rate, or who have varying base and overtime rates of pay). In the meantime, employers should use the currently available model form, while making adjustments to it (which can be done by hand) as necessary to fit the specifics of the new hire's base rate of pay and, if applicable, overtime rate of pay.

If you have questions about these requirements, or about how to best tailor the model form to your specific compensation practices, please contact one of the attorneys listed below.

**Our client alerts are for general informational purposes and should not be regarded as legal advice.  
If you would like additional information or have any questions, please contact:**

David Gallai

+1 (212) 408-1033

[dgallai@chadbourne.com](mailto:dgallai@chadbourne.com)

Marjorie M. Glover

+1 (212) 408-1016

[mglover@chadbourne.com](mailto:mglover@chadbourne.com)

Peter N. Hillman

+ (212) 408-1010

[phillman@chadbourne.com](mailto:phillman@chadbourne.com)

Rachel M. Kurth

+1 (212) 408-5185

[rkurth@chadbourne.com](mailto:rkurth@chadbourne.com)

Edward P. Smith

+1 (212) 408-5371

[esmith@chadbourne.com](mailto:esmith@chadbourne.com)

[www.chadbourne.com](http://www.chadbourne.com)

New York Washington Los Angeles Mexico City

London (a multinational partnership) Moscow

St. Petersburg Warsaw Kyiv Almaty Dubai Beijing

CHADBOURNE  
& PARKE LLP