Since 1989, New York law has required employers to provide written notice to employees whose employment has been terminated. Historically, this requirement was ignored by employers, with little or no consequences. However, recently, the New York Department of Labor has been assessing monetary fines on unsuspecting employers that fail to comply with this particular notice requirement.

Under New York Labor Law § 195(6), employers are required to provide written notice to any employee terminated from employment with “the exact date of such termination as well as the exact date of the cancellation of employee benefits connected with such termination.” This written notice must be provided within five working days after the employment relationship has ended. This notice requirement applies not only to those employees whose employment is terminated by the employer, but also to those employees who leave the employer because they resign, quit, retire or are laid off.

If an employer fails to provide the notice required under New York Labor Law § 195(d), the employer can be subject to civil fines of up to $5,000 per employee. In addition, aggrieved individuals can bring civil actions against employers that fail to provide the required notice.

In order to prevent liability, employers should incorporate a form termination notice into their exit procedures. Below is a sample notice.

Dear _____________:

Please note that your employment with [INSERT LEGAL NAME OF EMPLOYER] (“Company”) ended on [DATE].

In addition, your participation in all employee benefits plans and programs ended on [DATE].

If you have any questions or concerns, please do not hesitate to contact me. We wish you well in your future endeavors.

Very truly yours,

[COMPANY REPRESENTATIVE]
In the event the departed employee participates or participated in an employer-sponsored health insurance plan, the middle paragraph in the sample notice should be replaced with either of the following paragraphs:

In addition, your participation in all employee benefits plans, including the Company’s health insurance plans ended on [DATE]. Under separate cover, you will receive additional information about your rights, if any, to continue your participation in the Company’s health insurance.

OR

In addition, your participation in all employee benefit plans, other than the Company’s health insurance plan, ended on [DATE]. Your participation under the Company’s health insurance plan will end on [DATE]. Under separate cover, you will receive additional information about your rights, if any, to continue your participation in the Company’s health insurance plan after [DATE].

For more information about this Alert, please contact Carolyn D. Richmond at crichmond@foxrothschild.com or Glenn S. Grindlinger at ggrindlinger@foxrothschild.com or another member of Fox Rothschild’s New York Labor & Employment Department. Visit us on the web at www.foxrothschild.com.