

EMPLOYMENT LAW ALERT

September 2010

Ruskin Moscou Faltischek's Employment Law Capabilities

- Sexual Harassment Prevention
- Discrimination Avoidance
- Restrictive Covenants (non-compete, non-solicitation) and Unfair Competition
- Protection of Trade Secrets, Proprietary Information and Business Opportunities
- Employment At Will, Breach of Contract and Termination for Cause
- Employee Policy Manuals
- Family and Medical Leave
- Wage and Hour Requirements
- Employee vs. Independent Contractor
- Executive Employment Agreements and Severance Packages
- Comprehensive Litigation Services

For further information, please contact these
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NEXT MONTH:

RMF "Best Practices" Roundtable Seminar

"Managing Workplace Stress and Other Disruptive Behaviors"

Wednesday, October 20, 2010

8:00 a.m. to 10:00 a.m.

at the offices of Ruskin Moscou Faltischek, P.C.
HRCI/CPE/CLE credits available

RSVP to info@rmfpc.com or (516) 663-5353

NY State Extends Bereavement Leave Obligations

By: **Jeffrey M. Schlossberg**



In August, the Governor signed into law a statute extending funeral/bereavement leave rights to same-sex committed partners. Effective October 29, 2010, employers who provide funeral or bereavement leave to an employee for the death of a spouse, child, parent or other relative may not deny the same leave to an employee for the death of an employee's same-sex committed partner or the child, parent or other relative of the committed partner.

For the purpose of this law, the term "same-sex committed partner" is defined as those who are "financially and emotionally interdependent in a manner commonly presumed of spouses."

Employers are advised to revise their employee manuals in order to be in compliance with this new law.

FMLA: May I Ask for More Information?

One of your employees requires a leave of absence under your Family and Medical Leave policy. You request that the employee's medical provider complete the required medical certification. In response, you receive a partially completed form. Are you entitled to obtain the missing information?

According to federal regulations, if the form is incomplete, vague or non-responsive, an employer is entitled to notify the employee in writing and must state the additional information that is required. The employee is permitted an additional 7 days to cure the deficiency.

If the employee fails to have the deficiencies cured, the employer is permitted to seek clarification from the medical provider. However, to make such contact, the employer must use a health care provider, a human resource professional or management official. Under no circumstances is the employee's direct supervisor permitted to contact the employee's health care provider.

It is important to keep in mind that once answers on the form are clarified, an employer may not seek additional information beyond that contained on the form. Further, should you receive a form that is complete and not ambiguous, you may not request additional information from the provider.

As a final note, seeking a "second opinion" is limited to circumstances where the employer has "reason to doubt the validity of a medical certification." The regulations do not specifically address what such reasons might be. In all cases, even if a second opinion is permitted, it must be paid for by the employer.

If we can be of assistance on these or any employment law issues, please do not hesitate to contact us.



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