

MEMORANDUM

To: All Clients
From: Ellenoff Grossman & Schole LLP
Subject: Client Alert -- Recent Changes to New York Limited Liability Company Law
Date: November 2006

Ellenoff Grossman & Schole LLP (“EGS”) is involved in the formation of limited liability companies (“LLCs”) in New York. The formation of an LLC involves the filing of articles of organization with the Secretary of State of the State of New York and the publication of a notice of such formation in two newspapers in the county of the location of the principal business or office of the LLC. Prior to the recent enactment of the legislation described below, the failure to publish meant only that the LLC would be unable to commence a lawsuit in the State of New York (but would not be hindered in its ability to defend against an action). Because of the substantial expense associated with publication (usually \$1,500-\$2,000), a number of LLCs have elected not to publish or to defer publication unless and until such LLCs have reason to commence litigation.

As of June 1, 2006, changes to the New York Limited Liability Company Law made pursuant to Chapter 767 of the Laws of New York, 2005 (the “Amendment”) went into effect which altered the rules regarding publication for all LLCs located and/or doing business in New York. Although all LLCs will still be required to publish, the Amendment implements, among other requirements, the following:

- **All LLCs formed between January 1, 1999 and May 31, 2006, must comply** with the publishing requirements set forth in the Amendment **by June 1, 2007**, if they have not previously published;
- Published notices must include the principal business address of the LLC as set forth in its formation documents; and
- **LLCs that do not follow the publishing requirements set forth above will have their authority to conduct business in New York suspended until publication requirements have been met.**¹

In as much as the penalty for failure to publish includes a suspension of authority to conduct business, EGS strongly recommends that all LLCs that have not previously published immediately comply with the new requirements. If you would like EGS to assist you by inquiring as to the publication status of your LLC(s), or if you would like us to begin the publication process for your

¹ Such suspension does not, however, limit or impair the validity of any contract or act of such LLC, or any right or remedy of any other party under or by virtue of any contract, act or omission of such LLC or right of any other party to maintain any action or special proceeding on any contract, act or omission, or right of such LLC to defend any action or special proceeding

LLC(s), please contact Caitlin Coan, our paralegal, by telephone at (212) 370-1300 or by email at ccoan@egsllp.com. For your information, below is a schedule of estimated charges for publication in various counties.

**LIST OF ESTIMATED PUBLICATION FEES
BY COUNTY**

Please note that these amounts are **estimates** and do not include applicable corporate service company or attorneys' fees. Because publication fees are assessed by the individual newspapers to which publications are assigned, a range of prices is given rather than a single price.

<u>NEW YORK COUNTY</u> –	Domestic:	\$1,100-\$1,600
	Foreign:	\$1,500-\$2,400
<u>WESTCHESTER COUNTY</u> -	Domestic:	\$350-\$425
	Foreign:	\$425-\$550
<u>QUEENS COUNTY</u> -	Domestic:	\$700-\$1,000
	Foreign:	\$900-\$1,300
<u>KINGS COUNTY</u> -	Domestic:	\$700-\$1,000
	Foreign:	\$900-\$1,300
<u>NASSAU COUNTY</u> -	Domestic:	\$350-\$500
	Foreign:	\$450-\$600
<u>BRONX COUNTY</u> -	Domestic:	\$800-\$1,200
	Foreign:	\$1,100-\$1,700
<u>ALL OTHERS</u> -	Domestic:	\$250-\$550
	Foreign:	\$450-\$600