

The Importance of Employment Contracts



SHIVON PATEL, ESQ.

No matter what business you are in, how old you are or how long your employees have been working for you, you can benefit

from a very important aspect of doing business: a well-drafted employment contract. An employment contract is the only line of defense you have if you do not see eye to eye with an employee. Whether your employee is a friend, family member or stranger off the street, you must have an employment contract to protect the interests of you and the employee as well as your business. If you do not have an employment contract, no matter how successful your business may be, you leave yourself vulnerable to losing everything.

Employment contracts are the foundation upon which the employee-employer relationship is built. Although there is a state law that governs specific aspects of the relationship between employees and employers, the laws are general and do not cover every facet of employment. An employment contract is a legal agreement between a particular employer and employee and specifies and defines the rights and obligations of both.

A formal employment contract protects both the employer and employee because it explicitly sets forth the responsibilities of both parties. In addition, the terms and conditions

of employment, such as overtime compensation, sick pay, vacation entitlements, benefits and termination policies are also clearly defined. Although employment contracts are extremely beneficial to the employer as well as the employee, employers often utilize the contracts to protect themselves. For example, a restrictive covenant can be included that prohibits a former employee, for a specific amount of time, from engaging in a similar job within the same geographical area after the employee is no longer working for the employer. A clause could also be drafted that could prohibit a former employee from doing business with the former employer's clients for a specified period of time after termination.

Another useful condition that can be included in the contract is a clause requiring the employee to keep all trade secrets and other sensitive information about the employer and business confidential. The employer also can set forth a probationary period for employees and the minimum notice an employee must give before quitting. Probation periods are advantageous because they protect an employer from having to continue the employment of a worker who is not fulfilling his/her job functions as had been expected when the worker was hired.

Employment contracts also act as a vital legal tool for employers because they may contain a disciplinary code and procedures. A normal practice, this procedure sets forth a formal plan



the employer must follow in the event an employee needs to go through the disciplinary process. By having a formal plan in place, and following that plan, employers can protect themselves and their businesses from employee claims of unfair termination.

Employers who do not use employment contracts risk exposing themselves to potential liability and lawsuits. An employment contract is the easiest and most beneficial way to protect yourself and your business.

Shivon Patel is an attorney with The Principal Law Firm in Sanford. Her practice areas include business law, real estate and estate planning. For more information, visit www.principallaw.net