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Common Workplace Lawsuits and How to Avoid Them

Lawsuits against a business are not uncommon, especially in this heavily litigious day and age. When a lawsuit stems from an employee it can sting a little more, both emotionally and financially. Workplace lawsuits, especially in California, can be incredibly costly for employers. Below are the five most common workplace lawsuits as well as some advice on how to avoid them.



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1. DISCRIMINATION

When an employee is being treated unfairly they may be able to file a discrimination lawsuit against their employer. Certain classes of employees are protected by one or more of a multitude of federal anti-discrimination laws, so if unfair treatment can be attributed to factors such as the employee's race, gender, skin color, nationality, sex, disability, religion, pregnancy, veteran status, citizenship or age, that employee can file a claim with the The U.S. Equal Employment Opportunity Commission (EEOC).

Discrimination in the workplace can occur in a variety of ways, and can begin before an employee has even been hired to work for the company. In an advertisement for a job opening , any suggestion of a preferred type of candidate that falls outside the category of professional attributes can be considered discrimination. Other common discrimination cases are the result of things like pay disparities among equally-qualified employees in the same position; denying certain employees the use of company facilities or assigning an employee to a non-customer contact position based on their appearance.

Avoiding discrimination lawsuits is difficult, but not impossible. First and foremost, it's important for employers to know all of the protections offered to employees and review any applicable employment law changes regularly. Employers are also liable for the actions of their supervisory staff, so it's important to make sure that managers and supervisors are educated on federal and local laws regarding discrimination, and that all business protocols, policies, and procedures are clear, well documented and available to all employees.



2. HARASSMENT

Workplace harassment can be either verbal or physical, or both. Types of harassment include: jokes, innuendos, slurs, name-calling, insults and unwanted physical contact. The harasser could be another employee, a supervisor or even a contractor, but a lawsuit could still be brought

against the employer for not dealing with the situation properly, through inaction, retaliation or other inappropriate responses such as perceived retaliation. In this case, actions such as demoting, transferring or otherwise penalizing the harassed employee after they have made a harassment claim could be considered retaliation.

The EEOC has specific standards of liability that state that; 1) an employer is responsible for the acts of its supervisors, and 2) employers should be encouraged to prevent harassment and employees should be encouraged to avoid or limit the harm from harassment. Harassment doesn't necessarily require that the affected employee be a member of any of the aforementioned protected classes, as bullying or hatred can apply to anyone, but incidents of workplace harassment are commonly associated with members of protected classes. Because of this, discrimination charges are often added to harassment cases, creating additional issues for the employer.

The best way to prevent harassment is to be transparent about harassment rules and guidelines. Employers should develop, distribute and encourage regular review of an employee handbook that not only contains clear and concise harassment rules and guidelines, but also provides information regarding discipline to those who violate such rules and guidelines. By having a strong zero-tolerance attitude towards harassment in the workplace employers can build a strong foundation for a safer space for all employees.

3. WRONGFUL TERMINATION

Unlike discrimination and harassment, wrongful termination is not an actual cause of action upon which a lawsuit can be filed. Rather, it's a blanket term that is used to describe various causes of action, both direct and indirect, that result in the unlawful termination of an employee. Since most employees are employed on an "at-will" basis, they can reasonably be dismissed by their employer for any reason and without warning, as

long as the reasoning is not illegal. Most employers have their employees sign an acknowledgment of at-will employment upon hiring as a first line of defense against wrongful termination lawsuits.

The burden of proof in a wrongful termination case falls on the employee, so they must have some form of evidence that proves that the basis for the firing was illegal. This could include violation of a guaranteed employment contract, retaliation for refusal to violate public policy or reporting a violation of public policy as well as other malicious or discriminatory reasons.

Even though employers in at-will relationships are not technically required to offer any cause for termination, accurate and detailed records regarding employee performance, employee discipline, employee-employer communications, and so on, can help an employer prove the termination was legal and defend against claims of wrongful termination.

Wage and hour laws present a unique risk to employers. Not only do they have to be concerned about claims brought on by employees and former employees, but they also have to contend with wage and hour law enforcement on both the state and federal level. Many lawsuits filed against employers for allegations of wage and hour violation are first uncovered through an audit rather than an employee complaint.

Wage and hour lawsuits are most often based on claims that the employer failed to pay their employee(s) minimum wage or overtime pay or that they failed to allow proper time off for meal and rest periods. California's ongoing wage hike and ever-changing wage and hour regulations can make it difficult for employers to keep up with current wage laws and leave them more vulnerable to these types of lawsuits. Partnering with a PEO that is knowledgeable in both federal and local laws can help employers stay on top of wage and hour laws and avoid violations and lawsuits.

4. WAGE AND HOUR VIOLATIONS



5. PERSONAL INJURY



When an employee is injured at work, they will likely file a workers' compensation claim. However, there is another option that can be significantly more costly for the employer. Employers may be held liable in a personal injury lawsuit for injuries that an employee suffers while at work, which are the result, at least in part, of the employer's negligence. Unlike workers compensation damages, which typically include compensation only for lost wages and medical treatments, personal injury damages can include medical expenses, lost wages, loss of future earning capacity and additional damages for pain and suffering resulting from the injury.

Workplace injuries can and do happen, and while carrying workers' compensation insurance is important and necessary, employers should also take all possible precautions to avoid injury altogether, such as responding promptly to safety issues, diligently monitoring potential safety hazards, publish and enforce comprehensive safety guidelines and adequately train employees on workplace safety.

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