

Protecting Your Business Against Employment-Related Risks

This is a great time of year for a business to take preventive measures against employment-related risks.

We all know that the risks associated with having employees (especially disgruntled former employees) can be significant. Unhappy people have no problem finding a lawyer who will attack their client's employer if they think it would be profitable to do so - in other words, if the company has not taken appropriate steps to protect itself.

Fortunately, there are three easy steps you can and should take to protect your company:

1. Conduct an inventory of all existing employment policies and revise those that need to be updated (adding those that are missing),
2. Review all pay policies and practices to assure compliance with the wage & hour laws (Fair Labor Standards Act [FLSA]), and
3. Seriously consider an arbitration policy, especially for wage payment disputes, and include a prohibition on class actions.

Courts throughout the Southeast, particularly in Georgia, have witnessed a significant increase in employment-related lawsuits in the past three years, especially wage related actions. Here is why:

- People who are unemployed, for whatever reason, will look for opportunities to sue their former employers. It is easy for a disgruntled former employee to claim that he/she wasn't paid properly for all hours worked.
- Lawyers that represent employees are much more aggressively advertising on electronic media and they are attracting far more potential clients.
- These lawyers have seen that employers who are not prepared for the challenges of these suits are easy prey (and that pursuing them is profitable).
- Finally, many employers (who are not prepared) are forced to settle these cases, which "feeds the bear" and makes these cases even more attractive for the lawyers who represent employees.

The court system has responded to this increased litigiousness by protecting employers from increased litigation *but only when they have been pro-active*. For example, courts have thrown out class actions when the employer has a policy prohibiting them. Just as important, the courts have shown favor toward policies that require disputes to be resolved via arbitration. Wise employers will certainly take full advantage of these rulings to help "*even the playing field*".

The only legitimate way to deal effectively with this "litigation lottery" is to have the policies and practices that make your company one that Plaintiff's lawyers choose to pass by because suing you would not be profitable to them. We would be happy to discuss lawsuit prevention with you to see if a proactive approach makes sense for your company.

We do wish to express our appreciation for Attorney Chad Shultz of Gordon & Rees LLP for providing us the raw material and impetus for this email blast. Chad is one of those lawyers dedicated to protecting clients against members of his own profession.

If you have any questions about how you can protect your business from the risk of lawsuits by disgruntled employees, please contact Joseph C. Skalski of our office. Email: jskalski@largeandgilbert.com.