

Legal Issues in HR Management

The employment law group at Fogler, Rubinoff LLP can provide you with comprehensive advice and services to help you deal effectively with the numerous legal issues in managing both non-union and unionized employees. We regularly advise clients on the following issues:

- Employment and Consulting Contracts
- Termination of Employment
- Employment Policies and Policy Manuals
- Employment Standards
- Pay Equity
- Human Rights
- Workplace Safety and Insurance

Your employees are not only your most important asset, they are also the most difficult to manage. Our employment law group can help you get the most out of your employees, while reducing the disruption which uncertainty or upheaval among your labour force can cause. We would be pleased to meet with you to discuss how our experience and expertise can assist you in managing your employees.

FOGLER, RUBINOFF
BARRISTERS & SOLICITORS

FOGLER, RUBINOFF
BARRISTERS & SOLICITORS

Fogler, Rubinoff LLP
Suite 4400, P.O. Box 95, Royal Trust Tower
Toronto-Dominion Centre
Toronto, Ontario, Canada M5K 1G8
Telephone: 416-864-9700 Fax: 416-941-8852
www.foglerubinoff.com

Employment Law

Legal Issues in HR Management



FOGLER, RUBINOFF
BARRISTERS & SOLICITORS

Employment and Consulting Contracts

Depending on the relative bargaining power of the parties, either employees or employers may wish to clarify the expectations of their relationship through the use of some type of contract. The contract would describe the employee's duties and obligations, particulars of the compensation, including items such as automobile allowances, bonuses and stock options, and payment or notice requirements for termination.

In some cases, employment-type services can be provided by contractors on an "as needed" or limited duration basis. However, with the increased flexibility comes increased risk resulting from the actions of these "free agents". We assist our clients by preparing employment or consulting agreements which, to the extent possible, protect the employer from these risks.

Finally, in today's fiercely competitive and information-sensitive business environment, our agreements contain strict confidentiality, non-competition and non-solicitation provisions which apply both during the term of employment and following the termination of the agreement.

As each company is different and as each employment situation has its own unique requirements, our employment and consulting agreements are drafted to meet the specific requirements of each situation.

Termination of Employment

Like marriage, the employment relationship begins with optimism and hope for the future. However, also like marriage, on occasion the relationship does not work out and divorce becomes the only alternative. The issue for the employer is whether or not notice of that termination must be given and, if so, how much notice is required.

The law as to what constitutes sufficient cause to allow the employer to terminate without notice is continuing to evolve. We can instruct the relevant personnel within the company as to the information required to support the allegation of cause. We can also provide advice as to the appropriate statutory and common-law requirements for length of notice, where cause is not an issue, and on the duties of the departing employees with respect to disclosure of confidential information and removal of corporate assets.

Stock Options

Incentive compensation by way of stock options has become an important aspect of many compensation systems. We can assist you in structuring such plans to best achieve your company's goals of recruitment and retention of qualified personnel. We can draft the plan

provisions to deal with entitlement after resignation or dismissal, implications of mergers or buyouts, unexpected drops in share value, and other events that may affect entitlement under the plan.

Employment Policies and Policy Manuals

Employer or employee dissatisfaction often has its root in mistaken impressions of the other's expectations and obligations. Clearly worded and widely distributed employment policies can help to reduce such confusion. Such policies should deal with attendance expectations, personal and/or sick leave provisions, hours of work requirements, and numerous other issues.

Policy manuals should also contain prohibitions on disclosure of the employer's business secrets, removal of company property, and competition with the employer while in its employ. Depending on the nature of the employer's business, it may also deal with ownership of technology or products developed by the employee. The production and distribution of manuals containing such policies often affords a useful opportunity for the exchange of ideas regarding the governance of the workplace between management and employees.

Finally, policy manuals should clearly set out the supervision and discipline practices of the company and under what circumstances the employer will resort to dismissal of employees. The inclusion of policies covering such matters as harassment has often been useful for employers in supporting a due diligence defence to a claim of harassment, or at least in reducing the damages awarded.

Employment Standards

Depending on the nature of the industry, employers are subject to various federal and provincial statutes setting out required standards which must be met in the employment relationship. These include hours of work, maximum allowable overtime, paid and unpaid vacations, and pregnancy and parental leave. We assist our clients in reviewing their current employment practices to ensure these practices meet the requirements of the legislation.

Pay Equity

Both the Ontario Pay Equity Act and the Canadian Human Rights Act apply to employers in Ontario. We assist our clients in understanding the requirements of the legislation and implementing practices which will help to insure compliance. We understand the interplay between pay equity, union management negotiations, and employment contracts and assist our clients in preparing and maintaining a pay equity plan which complies with all of the requirements.

Fogler, Rubinoff LLP
Employment Law Contacts

You are welcome to contact a member of our Employment Law Group for assistance:

Earl Altman

416-941-8850
ealtman@foglerubinoff.com

Stephen A. Bernofsky

416-941-8879
sab@foglerubinoff.com

J. Anthony Caldwell

416-941-8842
jac@foglerubinoff.com

Michael Donsky

416-941-8849
md@foglerubinoff.com

Joel D. Farber

416-365-3707
jdf@foglerubinoff.com

Stephen N. Infuso

416-365-3726
sinfuso@foglerubinoff.com

Martin R. Kaplan

416-941-8822
mrk@foglerubinoff.com

Fogler, Rubinoff LLP
Suite 4400, P.O. Box 95, Royal Trust Tower
Toronto-Dominion Centre
Toronto, Ontario, Canada M5K 1G8
Telephone: 416-864-9700 Fax: 416-941-8852
www.foglerubinoff.com

