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**Protect Your Job & Wages**

**By Susan Chana Lask, Esq.**

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When people call me about employment issues they don't realize one important law— in almost every state you are terminable at will. That means that your employer can fire you anytime and for no reason at all. The only way you are protected from being fired on the spot without notice is if you have a contract of employment. A contract of employment must be in writing and should specify your length of employment, salary, terms of employment, vacation, bonus calculations, the basis of termination and any warnings to be given (make it at least 3 warnings if you can) prior to termination and must be signed by your employer, among other things.

Now, most people never get employment contracts because their employers do not want to lose the right to terminate you with or without cause. But there is a saving grace—if your employer wrote an initial offer of employment letter and you commenced employment based on that letter, you can use the terms in that letter as your contract of employment. Hopefully the letter spells out your salary and length of employment because there are cases where if your fired before the end of the term in that letter than you can be due the balance of your salary for that term. So, if your salary was \$40,000 for the year and the offer of employment letter states your term is 1 year then if your fired in the first 2 months, your due the balance of 10 months salary. And if your employer has an Employee Handbook with rules and regulations therein (usually terms of termination, warnings, vacation pay) then that Handbook is also a binding "contract" of employment. Read the terms of your Handbook because it may spell out how and when you can be terminated which may or may not be good for you depending on whether or not it limits the employer's liability for terminating you. On the other hand, if the Handbook has terms regarding certain pre-warning procedures before terminating you and those procedures were not followed, then you can enforce those procedures as terms of your contract. If your employer breached those terms he most likely must re-instate your employment and follow those procedures before terminating you.

The most important part of your employment is getting paid, so if your employer fires you and refuses to pay you what you understand to be due you, then use your Offer Letter and the Employee

## Protect Your Job Wages

Handbook as your "contract" of employment. The employer must follow any terms in those documents. There are also labor laws in each state that require payment for overtime, limited hours of work for certain jobs and notice of your termination date and your health insurance termination dates and proper notice is required as to how to extend your health benefits ("COBRA"). Also, law specifies that an employer must pay you at least every two weeks, so if you're fired and the employer doesn't send your last check to you on time and holds it back—he violated labor laws and can be held liable to you for extra money you pay to recover your wages.

For instance, in New York the Labor Law mandates proper notice of employee termination and benefits termination. An employer failing to follow the Labor Laws is penalized under Labor Law 198, in addition to ordinary costs lost by the employee he must pay a reasonable sum for expenses which may be taxed as costs are allowed by the court. Furthermore, in any action instituted upon a wage claim by an employee which the employee prevails, the court is required to allow such employee reasonable attorneys' fees, Labor Law 198(1-a), and upon finding that the employer's failure to pay the

wage specified by statute was willful, an additional amount as liquidated damages equal to twenty-five percent of the total amount of wages due is also paid to the employee. Labor Law 198(1-a). Case law holds an award of liquidated damages to employees proper where the employer knowingly, deliberately and voluntarily disregarded its obligation under the Labor Law to pay the employees' commissions, which would be deemed "willful" failure to pay wages. *P & L Group, Inc. v Garfinkel* (1989, 2d Dept) 150 AD2d 663, 541 NYS2d 535.

So, don't despair if your employer gives you a hard time when you're fired—there are laws requiring him to pay your wages and your Employee Handbook and Offer of Employment Letter also can be used as valid contracts to support your position for wages.

This article is certainly not all inclusive and is intended only as a brief explanation of the legal issue presented. Not all cases are alike and it is strongly recommended that you consult an attorney if you have any questions with respect to any legal matters.

Any questions and/or comments with respect to this topic or any other topic, contact:

Law Offices of Susan Chana Lask  
853 Broadway, Suite 1516  
New York, NY 10003  
(212) 358-5762

Susan Chana Lask, Esq. c 2004

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**What do Employees Really Want?**

**By Megan Tough**

### **What do Employees Really Want? by Megan Tough**

A major problem for business owners and employers today is getting the best employees and then keeping them. Sounds easy, but any employer will tell you that these activities take up the most time and have the biggest impact on business results. So how do you go about retaining the good people once you've found them?

Understanding what your employees want from a workplace sounds like a logical place to start. After all, if you know what your employees are after, you simply need to provide it and all will be well. This is a great theory, but research shows that employers are not that successful at identifying what their employees actually want. In fact there is a significant disconnect between the things that employees say are important to them, and how highly employers rank those same things.

This survey first came out in 1946 in Foreman Facts, from the Labor Relations Institute of NY and was produced again by Lawrence Lindahl in Personnel magazine, in 1949. This study has since been replicated with similar results by Ken Kovach (1980); Valerie Wilson, Achievers International (1988); Bob Nelson, Blanchard Training & Development (1991); and Sheryl & Don Grimme, GHR Training Solutions (1997–2001).

When asked to rank a list of ten criteria, the employees and managers/owners ranked them very differently:

#### **WHAT EMPLOYEES SAY THEY WANT (in order)**

- 1.Full appreciation for work done
- 2.Feeling `part' of things
- 3.Sympathetic help on personal issues
- 4.Job security
- 5.Good wages
- 6.Interesting work
- 7.Promotion/growth opportunities
- 8.Personal loyalty to workers
- 9.Good working conditions
- 10.Tactful discipline

#### **WHAT MANAGERS THINK EMPLOYEES WANT (in order)**

- 1.Good wages
- 2.Job security
- 3.Promotion/growth opportunities
- 4.Good working conditions
- 5.Interesting work
- 6.Personal loyalty to workers
- 7.Tactful discipline
- 8.Full appreciation for work done

9.Sympathetic help on personal issues

10.Feeling `part' of things

What does this mean if you are an employer or a manager in business today?

Frequent pats on the back will go a long way towards making your employees more satisfied at work. Happily, it's not always about the money.

Megan Tough, director of Action Plus, works with small business professionals who are ready to do more than `just get by'. Increase your income – decrease your stress! To learn more and to sign up for more FREE tips and articles like these, visit [www.megantough.com](http://www.megantough.com)

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