

PREFACE

The employment at will doctrine has been a bedrock tenet of American jurisprudence since the formation of this nation. At its core, it allows an employer to discharge an employee for a good reason, a bad reason, or no reason. Over the years, however, the doctrine gradually has been eroded through federal, state, and local legislative and regulatory enactments, as well as by court decisions relying on the common law. Title VII of the Civil Rights Act of 1964, for instance, famously precludes covered employers from terminating employees “because of such individual’s race, color, religion, sex, or national origin.”¹

Consistent with the federalist structure of this country’s judicial system, each state has developed its own unique version of the employment at will doctrine with unique recognized exceptions to the doctrine. This work summarizes the status of the employment at will doctrine for each state, Puerto Rico, and the District of Columbia, focusing on the following topics:

- The creation of enforceable employment agreements through (1) employee handbooks or other written personnel policies, and/or (2) verbal assurances.
- Recognition of common law claims for wrongful termination.
- Recognition of the covenant of good faith and fair dealing with respect to express and implied employment contracts.
- Any recognized public policy exceptions to the doctrine of employment at will.
- The employee’s burden of proving a claim of wrongful discharge.
- What constitutes “just cause” for purposes of termination.

¹42 U.S.C. §2000e-2(a)(1).

- The impact of any disclaimers by the employer on the employment at will relationship.
- Potential damages in a wrongful discharge action.
- Related causes of action lying in tort that may arise out of fissures in an employment relationship, such as fraud, intentional interference with contract, negligent misrepresentation, defamation, negligent and intentional infliction of emotional distress, and negligent hiring, retention, and supervision.
- State statutes that restrict termination based on certain protected classifications.

Experienced and highly regarded members of both the plaintiff and defense bars have contributed to the content of each state chapter. These chapter authors, as well as their regional editors, are recognized in the Board of Editors of the book and are deserving of much appreciation for their tireless efforts in completing this project.

This book should serve as a useful tool for attorneys who represent individual employees as well as employers. Because many companies have employees in multiple states, this book may be particularly helpful to those companies and their counsel who wish to familiarize themselves with the law of each state in which the company's employees are active.

This book is an outgrowth of the annual report of the Employment At Will Subcommittee of the Employment Rights and Responsibilities Committee of the ABA Section of Labor and Employment Law. That subcommittee is open to any attorney interested in becoming a member. We welcome comments, suggestions, and other input from our readers.

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