



## Practice Areas For Employees

The employment law attorneys at Meyers Fried-Grodin LLP provide a full range of legal services for New Jersey and New York employees.

### Discrimination/Harassment/Hostile Workplace

Discrimination is often difficult to firmly identify. A wide array of federal and state statutes prohibit employers from making employment decisions, such as hiring, firing, promotions, and demotions based on legally-protected individual characteristics (e.g. race, gender, religion, sexual orientation, disability/handicap status, etc.).

Rarely is there direct evidence of discrimination, such as a “smoking gun” e-mail in which the boss tells an employee that he is firing her because, for example, she is too old. Determining whether discrimination motivated a termination or other adverse employment action often requires looking at how the employer has treated other comparable employees. Because evidence regarding an employer’s motive is often subtle, it is wise for individuals who believe that they have been harmed by employment discrimination to contact an experienced employment attorney to assess the situation. Meyers Fried-Grodin’s attorneys use their years of experience handling discrimination matters to honestly assess employee’s potential claims and to achieve the best possible results for individuals with supportable claims. This includes both litigating such matters and negotiating and mediating such disputes with employers without litigation.



### FAMILY AND MEDICAL LEAVE AND DISABILITY LAW

Many people have health issues or family members with health issues, both of which can impact people at work. There are many state and federal laws, such as the Family and Medical Leave Act (FMLA) and the New Jersey Leave Act, that provide employees with time off in connection with their own health conditions or those of family members. There are also laws, such as the Americans with Disabilities Act (ADA), that require employers to provide reasonable accommodations to employees with certain medical conditions.

While many people are familiar with the general concepts behind these laws, they often have difficulty understanding their rights when it comes to leave time or asking their employers to accommodate a disability, illness, or injury. Whether an employee is protected under these various laws can depend on many factors, such as how long they have been employed, how many employees work at their company, and what kind of medical concern is at issue. The employment attorneys at Meyers Fried-Grodin LLP can help individuals understand and deal with these issues while they are employed and evaluate whether an employee’s termination violates the various leave and disability laws.

## UNPAID WAGES (OVERTIME, MINIMUM WAGE, AND PREVAILING WAGE)

Compliance with wage & hour laws is tricky. Even well-meaning employers can overlook their obligations to pay minimum wage, overtime pay (for hours worked in excess of 40 per week) and prevailing wage (a special premium that applies when employees perform work on government contracts, particularly the construction and repair of government buildings). Moreover, sometimes employers make mistakes by, for example, giving employees "comp time" in lieu of overtime pay.

Further confusing for many employees is figuring out if they are even entitled to premium pay, such as overtime. For example, just because an individual is paid by way of salary does not necessarily mean that he or she is not entitled to overtime. Likewise, sometimes an individual is referred to as a "contractor" or "freelancer" and denied overtime (or minimum wage) on that basis. However, the law looks beyond these surface facts to see what the individual really does. Our employment attorneys can help you determine if you should actually be receiving certain levels of pay and determine if relief is available.

## WHISTLEBLOWER & OTHER RETALIATION

Various federal and state laws protect employees that report and challenge conduct at work that they believe is illegal or unethical. For example, New Jersey's whistleblower law, the Conscientious Employee Protection Act ("CEPA") is considered to be one of the broadest whistleblower statutes in the country. Employees who complain about or disclose workplace activities that they believe are illegal, fraudulent or criminal to a supervisor, government agency or business partner of their employer are protected against retaliation. What this means is that employers are prohibited under CEPA from taking adverse employment action against whistleblowers. Our attorneys regularly handle cases involving alleged violations of CEPA.

Various other state and federal laws, such as the state and federal anti-discrimination laws, state workers' compensation statutes, wage and hour laws, Occupational Safety and Health Act of 1970 (OSHA), Sarbanes Oxley and the Dodd-Frank Act protect employees who report violations or exercise their rights under those laws.

The attorneys at Meyers Fried-Grogin LLP have many years of experience litigating whistleblower and retaliation cases. Our attorneys can help individuals understand and deal with these issues while they are employed, and evaluate whether a termination or other adverse actions taken against an employee is caused by unlawful retaliation or violation of a whistleblower law.

## WRONGFUL DISCHARGE

Under New Jersey common law, an employer cannot fire an employee in violation of a clear mandate of public policy. Sources of public policy can include state and federal, laws, regulations and rules, professional ethics codes and industry standards. This means that if an employer's decision to terminate an employee is contrary to public policy recognized by the courts, such a firing is a wrongful discharge and actionable. The employment attorneys at Meyers Fried-Grogin represent clients in wrongful discharge cases and can evaluate whether a termination violates an applicable state or federal law.

## UNDERSTANDING EMPLOYER'S LEGAL OBLIGATIONS

Meyers Fried-Grogin's New Jersey and New York employment attorneys help employees understand the laws governing the workplace, including but not limited to wage and hour laws, family and medical leave laws and discrimination laws. We also provide assistance to employees who receive a negative performance evaluation, are being "managed out" of their organization and are involved in disputes at work.

## EMPLOYEES AND INDEPENDENT CONTRACTORS

Employees have many more rights than independent contractors under state and federal law. For example, employees are eligible for unemployment benefits when they lose their job, independent contractors are not. Similarly employees who suffer discrimination at work are uniquely protected by various state and federal laws while independent contractors are not generally protected by these laws. However just because an employer calls a worker an independent contractor in a contract or pays the worker with a 1099 instead of W-2 does not mean that that worker is necessarily an independent contractor under the applicable statutory law.

Under both state and federal employment laws, the determination of employee or independent contractor status is fact-sensitive and requires consideration of many factors. Meyers Fried-Grogin's attorneys understand the factors that courts and government agencies consider to determine employee status and can properly advise employees on this issue.

## EMPLOYMENT AGREEMENTS

Employees are often given offer letters or employment contracts to sign at the beginning of their employment. Anxious to start their new jobs, many employees often sign such agreements either without fully understanding them or without even reading them at all. Doing so is risky as such agreements often dictate the compensation and benefits the employee will be offered, include restrictions that could affect the employee's ability to work for other companies after the employee leaves the employer, and require the employee to address any disputes they have with the employer in a certain way. Sometimes employers are willing to modify such

terms if the employee asks them to do so before they are hired. Unfortunately many employees who sign such agreements don't discuss them with an attorney until they are about to leave their job and then find out for the first time that they are faced with unanticipated consequences. The best time to get advice on such agreements is before you sign them. The employment lawyers at Meyers Fried-Grogin regularly draft and negotiate employment agreements.

### SEVERANCE PAY & SEVERANCE AGREEMENTS

Most severance agreements provide some kind of monetary assistance or benefits to departing employees in exchange for a release of claims. By signing such agreements, an employee typically gives up the right to sue their employer for any and all possible legal claims they have against them (the release) in exchange for something of value. Meyers Fried-Grogin's employment attorneys can assist employees by reviewing severance agreement and negotiating the terms of such agreements with the employer on the employee's behalf or advising the employee behind the scenes on this issue so that the employee can negotiate the terms himself or herself. We can also ascertain the facts surrounding the termination to ascertain if the individual will be waiving his or her right to bring a potential lawsuit by signing the agreement.

### NON-COMPETES AND NON-DISCLOSURE AGREEMENTS

More and more employers are requiring employees to enter into restrictive covenant agreements which can:

- limit an employee's ability to obtain subsequent employment,
- limit an employee's ability to solicit the employer's customers and/or employees, and
- require employees to keep certain information obtained in employment confidential.

The enforceability of such contracts is governed by a standard of reasonableness which can vary state by state. The attorneys at Meyers Fried-Grogin LLP regularly represent employees who have signed or are asked to sign employment restrictive covenants.

### ARBITRATION AND MEDIATION

#### Arbitration

As employment lawsuits become more and more common, many employers are implementing arbitration policies and arbitration agreements to provide an alternative process outside of the courts to address workplace disputes. Employees who are required to arbitrate their employment disputes give up the right to a jury trial and instead must have their dispute heard by an arbitrator or panel of arbitrators. Alternative dispute resolution providers and the courts require certain key terms to be contained in arbitration policies for such policies to be enforceable and for employees to receive the same rights in arbitration that they would have in court. Our attorneys understand when it is worthwhile to challenge an employer's arbitration policy or agreement. When such policies and agreements are enforceable and do require employees to arbitrate their disputes, our attorneys represent employees in arbitration.

#### Mediation

Employees and employers often benefit from attempting to resolve their employment disputes with the help of a mediator. A mediator is a neutral person who acts as a facilitator and helps the parties identify and resolve the issues, and bring finality to their dispute. Our attorneys have significant experience representing clients at mediation both before litigation commences and after it has commenced. Attorney Lisa I. Fried-Grogin is also a certified mediator herself.