

But I Don't Do Employment Law!

YOU MAY HAVE said, “But I don’t do employment law” when you noticed that this issue of *The Federal Lawyer* features several articles on employment law. In actuality, most lawyers, regardless of their area, practice a bit of employment law, and many of the remainder who really don’t deal with employment law may still need to know a bit about employment law for their own benefit.

It is certainly comforting, especially in this economy, for us lawyers who specialize in labor and employment to feel needed. I feel my value increase (even if only in my own mind) when one of my colleagues comes to my office to say a client just called saying that the Department of Labor has shown up for a wage and hour audit and asks me whether the department can really demand to look at personnel files. But the need for basic knowledge transcends the arrival of federal agencies at the client’s door. An attorney involved in business contracts should have at least passing knowledge of the Worker Adjustment and Retraining Notification (WARN) Act, which requires giving notice to workers of job loss prior to laying them off, and is the current topic of much litigation. The WARN Act can have a significant impact on mergers and acquisitions that will involve job loss.

In addition, especially in this economic climate of cutbacks and employees’ movement to new jobs, litigators are being called upon more frequently to litigate and defend noncompetition agreements. It may be useful to know that, when settling one of these cases, if one includes a broad release, the release may not be effective as to age discrimination claims if the provisions of the Older Workers Benefits Protection Act are not followed. A personal injury lawyer may need to advise a client on the impact of the Americans with Disabilities Act or the Family and Medical Leave Act. Criminal lawyers may need to counsel clients on their rights to continue employment or the way unemployment benefits work. Passing knowledge of workplace laws at least gives the non-employment lawyer knowledge of when to call on a labor and employment lawyer for help.

Finally, for those who say, “No, really, I don’t do employment law,” I have a question: Do you work for someone or do you have employees who work for you? If so, some knowledge of workplace law is important. For example, if your spouse gets sick, is your employer required to give you leave under the Family and Medical Leave Act? You may be a small employer, but do the state laws governing workers’ rights (laws that typically affect small businesses) apply to you, and what forms do new employees have to fill out?

I do not want every reader of this journal to learn labor and employment law, because then I would be out of a job. But I do believe that some knowledge of workplace law is valuable, even if all that knowledge does is enable non-employment lawyers to know what questions to ask and when to call one of us. Many of the articles in this issue of *The Federal Lawyer* explain issues involved in employment law. For example, the issue includes an article written by me, titled “Alphabet Soup,” which is a primer on basic workplace laws. Other topics include the Employment Non-Discrimination Act of 2009, compliance with health plans, the Railway Labor Act and the National Labor Relations Act as they apply to the labor force that handles ground shipping labor, and issues involving transgendered employees and gender identity claims in the workplace. Get to know a bit about workplace law, or at least get to know a labor and employment lawyer. You never know when you might need us. **TFL**

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