



James E. Griffis and Mac Smith

Harris, Finley & Bogle, P.C. is a full service law firm. We are equipped to address your legal needs, whether they involve appeals, banking, corporate, criminal, employment law, estate planning, oil and gas, personal injury, real estate, or state or federal court trials.

Jim Griffis practices in the area of employment law. He advises clients on employment handbooks, employment agreements, covenants not to compete, confidentiality agreements, employment litigation, and other human resources issues that occur in the context of employment relationships.

Mac Smith is a life-long resident of Weatherford and Parker County. He is a former Parker County District Attorney and former Weatherford City Attorney, and works with HFB's trial team representing clients in a broad range of litigation matters, including corporate governance, criminal, employment, oil and gas, insurance, probate, and personal injury litigation.

Please visit us at 120 Palo Pinto Street in Weatherford, or 777 Main Street, Suite 1800, in Fort Worth.



True Representation
Straight Talk ■



HARRIS · FINLEY · BOGLE

777 Main Street, Suite 1800 • Fort Worth, Texas 76102 • 817.870.8700
120 Palo Pinto Street • Weatherford, Texas 76086 • 817.550.6294

WORKING THROUGH COMMON EMPLOYMENT LAW ISSUES: EMPLOYMENT LAW 101

By Jim Griffis



Have you ever been confused by employment law terminology or concepts. If so, you are not alone. Here are some common issues that arise in employment law.

Termination of Employment

Employees often claim that they have been wrongfully terminated by their employer. While this may be true in some instances, in many others it is not. The law provides protection from wrongful termination if the employer's reason for termination violates the law. For example, if the termination is based upon the employee's race, age, gender, disability, or other protected class, then the termination can be wrongful. However, wrongful termination does not occur simply because the employer makes an unfair or unwise decision, especially when the employee is an at-will employee. In Texas, an employee is an at-will employee unless there is a specific agreement to the contrary.

Non-Compete Agreements

Non-compete agreements are alive and well in Texas. To be enforceable, a non-compete agreement must be ancillary to an otherwise enforceable agreement, and it must be reasonable in time, geographic area, and the scope of the activity being restricted. Non-compete agreements should be custom-tailored for each employee's unique situation.

There are additional requirements for physician non-compete agreements. One requirement is that the non-compete must allow the physician to buy-out his or her non-compete at a reasonable price.

Salaried Workers may be entitled to Overtime

The answer depends upon whether the salaried worker is exempt from the over-

time requirements of the Fair Labor Standards Act. Some common exemptions are for executives, professionals, highly-compensated employees, and administrators. To qualify for these exemptions, the employee must receive a minimum salary and perform certain duties. If either the salary or duties component is not met, then the salaried employee will be entitled to overtime if he or she works more than 40 hours per work week.

Independent Contractor vs. Employee

Whether a worker is an independent contractor or employee is not always easy to determine. Most government agencies presume that a worker is an employee rather than an independent contractor. This presumption can be rebutted by the employer, but rebutting this presumption can be difficult, especially if the worker is economically dependent on the employer.

The United States Department of Labor will often audit employers to determine if they are misclassifying workers as independent contractors. The repercussions of misclassification can be severe—an employer may owe back wages for minimum wage and overtime for 2 to 3 years, plus fines, penalties, and interest.

This article is general in nature. If you need assistance in working your way through employment issues, you should contact an experienced labor and employment attorney.

Jim Griffis is an attorney with Harris, Finley & Bogle, P.C. He concentrates his 15 year legal practice in labor and employment law. Mr. Griffis represents both employers and employees in various labor and employment matters.