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ILLINOIS LAW MANUAL

CHAPTER XVII EMPLOYMENT LAW

The employment relationship creates certain legal duties for the employer. This section considers the state of the employer-employee relationship under Illinois law, and certain common law and statutory bases on which employees may sue their employer. Because this area of the law also has an important federal component, this section also includes an overview of some common federal causes of action. The section discusses the procedural mechanism by which an employee's complaint moves through both the Illinois and federal agencies that regulate employment practices. Finally, the section touches on some wage and hour requirements imposed by either Illinois or federal law that some Illinois employers may have overlooked.

A. EMPLOYMENT-AT-WILL

In Illinois, the relationship between employer and employee is presumed to be "at will." McInerney v. Charter Golf Inc., 176 Ill. 2d 482 (1997). This means that both the employee and employer are free to end the relationship at any time, and for any reason that does not violate a clearly mandated public policy. Barr v. Kelso-Burnett Co., 106 Ill. 2d 520, 523 (1985). The relationship ceases to be "at will" when both parties enter into an employment contract. Duldulao v. St. Mary of Nazareth Hosp. Center, 115 Ill. 2d 482, 490 (1987). For an employment contract to be valid, it must be written in a clear and definite manner and be supported by consideration. Martin v. Federal Life Insurance Co., 109 Ill. App. 3d 596, 602 (1982). Consideration is a contract principle requiring that there be a detriment to the party making an offer and a benefit to the party

accepting that offer for a contract to be formed. Doyle v. Holy Cross Hosp., 186 Ill. 2d 104 (1999).

The issue of consideration in employment contracts often arises in relation to employee handbooks. Employee handbooks or manuals may create enforceable contractual rights if they are distributed to employees and have all of the traditional requirements of a valid contract. Duldulao, 115 Ill. 2d at 490. The language of the handbook must be written so clearly, and the handbook must be disseminated so broadly, that reasonable people would be aware that an offer to create an enforceable agreement is being made. Id. The acceptance of the offer and consideration is shown when the employee either begins her employment after the handbook is disseminated or continues to work after learning of the policies within the handbook. Id.

The Illinois Supreme Court narrowed an employer's ability to modify existing agreements arising from employee handbooks in Doyle v. Holy Cross Hosp., 186 Ill. 2d 104 (1999). In Doyle, two women hired before 1971 and two hired after 1971 were discharged by the defendant employer, Holy Cross Hospital. In 1971, the hospital had disseminated a handbook to all employees that contained various policies pertaining to employment. Id. at 105. The two women hired before 1971 continued to work after the handbook was distributed and the women hired after 1971 took their jobs with the

understanding that the handbook represented official company policies. Before any of the four employees were discharged, the hospital issued an addendum to the policy handbook stating that it was not to be construed as a contract and that the employment relationship between the hospital and its employees was “at-will.” After the employees were discharged in 1991, they all sued the hospital and claimed that the handbook represented a valid employment contract that the defendant had breached. The hospital argued that the addendum disclaiming a contract was supported by consideration because all four plaintiffs continued in the defendant’s employ after receiving it. This argument was rejected. The court held that the change was not supported by consideration. Merely electing to

continue existing employment relationships did not constitute the necessary consideration because the defendant was seeking to reduce the rights enjoyed by the plaintiffs under the employee handbook.

With or without a binding employment contract, Illinois common and statutory laws require employers to act responsibly and within public policy when making employment decisions. The most common non-statutory causes of action by Illinois employees are based on theories of retaliation.