

Employment-Related Claims

Wrongful Termination Based on Contract/Promise Theories:

Breach of Promise Not to Discharge Without Good Cause (Indefinite Term of Employment): To establish this claim, the employee must prove that (1) the parties entered into an employment relationship (an employment contract, or a provision in such a contract, may be written, oral, partly written and partly oral, or created by the conduct of the parties), (2) the employer promised, by words or conduct, to discharge/demote its employee only for good cause, (3) the employee substantially performed his or her job duties (unless that performance was excused or prevented), (4) the employer discharged/demoted its employee without good cause, and (5) the employee was harmed by the discharge/demotion. CACI 2401.

“At Will” Presumption: An employment relationship may be ended by either the employer or the employee, at any time, for any (lawful) reason, or for no reason at all. This is called “at-will” employment. An employment relationship is not “at will” if the employee proves that the parties, by words or conduct, agreed that the employee would be discharged only for good cause. CACI 2400.

Implied-in-Fact Promise Not to Discharge Without Good Cause: If there is no express agreement, an employee could base his or her claim on an implied promise not to terminate except for good cause. These are the most difficult cases to prove. An employer promises to discharge/demote an employee only for good cause if it is reasonable for an employee to conclude, from the employer’s words or conduct, that he or she will be discharged/demoted only for good cause. In deciding whether this is the case, a jury may consider: (a) the employer’s personnel policies and/or practices, (b) the employee’s length of service, (c) any raises, commendations, positive evaluations and promotions received by the employee, and (d) whether the employer said or did anything to assure its employee of continued employment. Length of service, raises and promotions by themselves are not enough to imply such a promise, but they are factors a jury may consider. And an at-will provision in an express written agreement, signed by the employee, usually cannot be overcome by proof of an implied contrary understanding. CACI 2403.

“Good Cause” Defined: Good cause exists when an employer’s decision to discharge/demote an employee is made in good faith and based on a fair and honest reason. Good cause does not exist if the employer’s reasons for the discharge/demotion are trivial, arbitrary, inconsistent with usual practices, or unrelated to business needs or goals (or if the stated reasons conceal the employer’s true reasons). A jury will balance the employer’s interest in operating the business efficiently

and profitably against the employee's interest in maintaining employment. If the employee had a sensitive management position, then the employer has substantial, though not unlimited, discretion in discharging/demoting him or her. CACI 2404.

"Misconduct": Where there is misconduct, an employee probably won't be eligible for unemployment insurance benefits. An employer has good cause to discharge/ demote an employee for misconduct if the employer, acting in good faith, conducted an appropriate investigation giving him, her or it reasonable grounds to believe the employee engaged in misconduct. This means one that is reasonable under the circumstances and includes notice to the employee of the claimed misconduct and an opportunity for the employee to answer the charge of misconduct before the decision to discharge/demote is made. CACI 2405.

Discharge/Demotion Before End of Contract Term: To establish this claim, the employee must prove that (1) the parties entered into an employment contract that specified a length of time that the employee would remain employed, (2) the employee substantially performed his or her job duties (unless that performance was excused or prevented), (4) the employer breached the employment contract by discharging/demoting the employee before the end of the contract term, and (5) the employee was harmed by the discharge/demotion. CACI 2420.

Good Cause Defense: An employer does not breach the employment contract if it acted with good cause. In this context, the employer must prove the employee willfully breached a job duty, continually neglected his or her job duties, or a continued incapacity prevented the employee from performing his or her job duties. CACI 2421.