

Do Work Contracts Still Matter?



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Do contracts really matter or are they irrelevant? In the often confusing world of workplace law, why are some agreements upheld, when many others are simply overlooked? The answer depends on the purpose that the contract is meant to serve.

Independent contractor agreements: It usually will not matter that workers have signed agreements stating they are contractors and not actually employees. Often, the contract represents little else than a 'label,' which is seldom sufficient. The true test is how the parties actually behave.

Post-employment restrictions: Many contracts contain broad restrictions preventing workers from competing with their former employers or soliciting their old clients following their departure. In certain cases these agreements will be enforced but in many others, they will easily be struck down. Why? Because employers often take a kitchen sink approach to drafting these restrictions. They bargain for more protection than they actually need but in doing so they sometimes get none at all. In general, the more one-sided a non-solicitation or non-competition agreement, the less likely a court will be to respect it.

Policy manuals: In one recent case, the employer argued that since the employee had not reported harassment as she was required to under the company's policy

manual, the company could not take any steps to address it. As a result, it argued, it was the employee who had breached the employment relationship, not the harasser. The court easily dismissed this notion. Although terms in a policy manual can sometimes operate as conditions of an employee's job, those terms must be reasonable or they will not be upheld.