

PRACTICE AREA

## EMPLOYMENT CONTRACTS

Pender & Cowards employment team has extensive experience in drafting, negotiating, and – when necessary – defending employment agreements, including non-competition, nondisclosure, and severance agreements. We work with companies to ensure that they have enforceable agreements that protect their employees, information, and clients from competitive threats. We also work with individuals to ensure that their rights are protected when entering into agreements with employers.

### Non-Compete and Confidentiality Agreements

In today's competitive business environment, restrictive covenants – including those related to non-competition and confidentiality – are an integral part of many company's efforts to protect their customer relationships and proprietary information. In Virginia, such covenants must be "no more restrictive than is necessary to protect the employer's legitimate business interests." If a company's covenants exceed this standard, they are unenforceable. For this reason, it is vital that employers retain attorneys who know how to draft enforceable employment agreements. Likewise, employees often need legal counsel to help determine their rights under such contracts. We work with both employers and employees to ensure that their rights are protected. We are also prepared to proceed to litigation if it is necessary to enforce or defend restrictive covenants.

### Severance Agreements and Exit Packages

Few things are more difficult for employers and employees than workplace terminations. Often, it is an employer's desire, and in its best interests, to provide terminated employees with some financial cushion, while at the same time protecting itself from potential litigation. Our employment team works with employers to develop effective exit policies and to design and draft enforceable and fair severance agreements.

### Offer Letters and Employee Handbooks

The best way to protect your customer relationships and trade secrets is to have policies and contracts in place before employment even starts. We can help you develop protective policies and draft offer letters that will establish employee duties and responsibilities from the outset.

What are the legal considerations for non-compete and confidentiality agreements, and how can I negotiate and enforce them?

Restrictive covenants – including noncompetition and nondisclosure covenants – are generally disfavored by the courts. As a result, courts hold employers to a high standard and will strictly review these clauses. In order to create enforceable restrictive covenants, they must be tailored to the specific employee's jobs and duties and

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protect only the legitimate interests of the employer. “One size fits all” contracts will not work. Additionally, recent changes to the law in Virginia have made some restrictive covenants not just unenforceable, but statutorily prohibited. Employers need experienced counsel to help them develop and draft enforceable employment agreements and to navigate the legal complex process of protecting their intellectual capital.

What are the legal considerations for severance agreements and exit packages, and how can I protect my rights and interests?

Exit packages, including severance agreements, are effective ways to not only help employees during a financially difficult time, but to also protect the company from costly litigation. Experienced legal counsel can help employers and employees know and protect their rights during the employment separation process.

What are the legal considerations for offer letters and employee handbooks, and how can I ensure compliance and clarity?

Handbook policies and offer letters are important tools for both informing your employees of the company’s expectations, but also protecting the company from future legal claims. It is important that employers hire counsel with extensive knowledge of human resources law to ensure that their handbooks and offer letters are up-to-date, clear, and enforceable.

Pender & Coward’s employment team has the experience and knowledge to assist both employers and employees in protecting their rights and duties under employment contracts and can work with companies to develop clear and effective employment policies and handbooks.

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