

## **MYTHS OF EMPLOYMENT LAW**

**MYTH: YOU DO NOT HAVE TO PAY OVERTIME TO SALARIED EMPLOYEES.**

**Reality:** Only salaried, executive, administrative or professional employees who exercise substantial independent judgment or supervise others are generally "exempt employees" under the Wage and Hour Law (commissioned employees are also exempt).

**MYTH: YOU HAVE TO GIVE A TERMINATED EMPLOYEE TWO WEEKS=NOTICE OR TWO WEEKS SEVERANCE PAY.**

**Reality:** Severance pay is required only if it is provided by the employer's severance pay policy or practice.

**MYTH: THERE'S NO REQUIREMENT FOR EMPLOYERS WITH FEWER THAN 20 EMPLOYEES TO PROVIDE "COBRA" TYPE GROUP HEALTH CONTINUATION COVERAGE TO TERMINATED EMPLOYEES.**

**Reality:** In Illinois, employee paid continuation coverage is required under all group health plans for eligible employees (those covered for three months prior to termination of employment), and such coverage can be required for up to ten years in the case of a 55-year-old divorced or widowed spouse.

**MYTH: EMPLOYERS CAN TERMINATE EMPLOYEES ONLY IF THEIR PERFORMANCE IS UNSATISFACTORY OR FOR OTHER GOOD CAUSE.**

**Reality:** Illinois is an "at-will" employment state which recognizes that employees can be terminated at any time for any reason unless there is a contrary agreement with the employer or the employee is being subjected to prohibited discrimination on the basis of age, sex, race, religion or in retaliation for protected conduct (union organization, "whistle-blowing," etc.).

**MYTH: AN EMPLOYER SHOULD NEVER ASK AN EMPLOYEE TO SIGN A RELEASE UPON TERMINATION OF EMPLOYMENT.**

**Reality:** Employers should always consider requesting a terminating employee to sign a release and should consider paying extra severance or other amounts to make the release binding on the employee. (**NOTE:** Releases that cover age discrimination claims must meet specific requirements as to waiting period, revocation period and language advising employee to seek legal counsel.)

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