



## Labor & Employment Audit

### WHY YOU MAY NEED AN AUDIT

Today, more than ever before, employers of all sizes are under pressure to satisfy the ever-changing rules governing the modern workplace. Employee handbooks, e-mail policies, hiring practices – and nearly every other policy and practice – are areas of potential liability for the employer. Strict enforcement and severe penalties are the rule of the day for employers found to have violated the law.

To minimize the possibility of a lawsuit against your company, Fox Rothschild offers a Labor and Employment Audit. The Audit begins with an in-depth session at the employer's place of business to review and analyze employment practices and policies. The second phase of the Audit includes a follow-up report recommending immediate corrective action to be taken and identifying broader issues that may be required by law or that may improve the employer's operations.

### AWARDS RECENTLY ISSUED

Your company must be careful in protecting its interests and avoiding costly litigation. The following cases boldly demonstrate the price that you may be forced to pay for unlawful policies and practices:

- \$7.8 million awarded in age-bias claim of 54-year-old electrical engineer terminated as part of a reduction in force.
- \$3.2 million awarded to female employee for sexual discrimination and harassment.
- \$1.3 million awarded to research chemist who was retaliated against after filing a discrimination complaint.
- \$1.2 million awarded in sexual harassment claim of female employee whose employer failed to train managers in its non-harassment policy.

### COMPLIANCE STRATEGY

As evidenced by past successes, clients find the Audit an effective first step to ensure their company's compliance with various labor and employment regulations and guidelines. Depending on the client's situation and the outcome of the Audit, we can offer additional services including the drafting/redrafting of employee handbooks, harassment avoidance policies and training, Family and Medical Leave Act policies and implementation strategies, and revamping of wage and hour policies and practices.

### COMPONENTS

Topics discussed during the Audit include:

- Employee applications and other employment forms
- The Immigration Reform Act
- Hiring and discharge procedures, orientation and exit interview forms
- Policies and procedures for compliance with the ADA and other antidiscrimination laws
- Employee handbooks/manuals and/or individual policies and procedures
- Employee benefits (health/prescription/dental/vision; pension, 401(k) and other retirement plans; life and disability insurance coverage; flexible spending accounts; and health care waivers)
- Wage and hour law (e.g., minimum wage, overtime, exempt employees, permissible deductions and periodic payments)
- Employment at-will and the exceptions to the principle
- Discrimination laws and concepts
- Posting requirements
- Drug and alcohol testing
- Family and Medical Leave Act and similar state leave laws
- Safety overview
- Supervisory training

### DOCUMENTS REVIEWED

Listed below are some of the documents discussed during the Audit:

- Employment application
- Employee handbook
- I-9 compliance materials
- Employee evaluation forms
- Employee discipline forms
- Health insurance forms
- COBRA forms
- Employee time record forms
- EEO-1 form
- Employment and related agreements
- Postings
- FMLA forms

## HIPAA

Employers offering benefits plans that provide medical care to employees and/or their dependents are likely to be affected by government regulations enacted under HIPAA (the Health Insurance Portability and Accountability Act). As “plan sponsors” of employee welfare benefits plans, you will need to meet certain requirements relating to the use and disclosure of information created or maintained by the employer-sponsored health plan. Our attorneys can assist with all aspects of HIPAA. Please discuss with your attorney/auditor how we can help.

## Labor & Employment Department

Fox Rothschild’s Labor & Employment Department is active in the full range of labor and employment counseling and litigation issues.

In the labor law arena, we represent employers exclusively in union avoidance, mass picketing and union access disputes, collective bargaining, contract administration and arbitration. We conduct administrative proceedings before the National Labor Relations Board (NLRB) and state agencies, and litigation in state and federal courts.

In the employment area, we assist employers in the development and implementation of personnel policies, procedures and handbooks and provide employee training and practical counseling on specific discipline, discharge and other human resources issues. We also counsel employers in the negotiation and drafting of executive employment, non-disclosure, non-competition and severance agreements.

Our employment litigation practice includes appearances at trials and appellate proceedings before all state and federal courts and agencies as well as private arbitrations. Our attorneys have experience litigating matters involving claims of age, handicap, sex and race discrimination, sexual harassment, wrongful discharge, whistle-blower violations, defamation, fraud, invasion of privacy, public policy, employment rights, intentional infliction of emotional distress and a wide variety of other common law and statutory claims arising in the employment context. Additionally, we regularly counsel clients on statutory compliance and risk management activities as well as develop human resource compliance programs.

We provide our legal services with one goal: to deliver to every client, in every matter, creative, aggressive advice and representation with practical and cost-effective results.

## Let Our Experience Be Your Guide®

Fox Rothschild LLP is a full-service law firm built to serve business leaders. Over the past 100 years, we have grown to nearly 750 lawyers in 22 offices coast to coast. Our clients come to us because we understand their issues, their priorities and the way they think. We help clients manage risk and make better decisions by offering practical, innovative advice. For more information about Fox Rothschild LLP, please visit [www.foxrothschild.com](http://www.foxrothschild.com).

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