

# Wrongful Termination

"Wrongful termination" or "wrongful discharge" covers employee actions alleging that the employer wrongfully fired the employee. Wrongful termination can be based on several theories, including breach of an employment contract and constructive discharge, as well as the protection given by the Whistleblower Protection Act of 1989 and comparable state laws to an employee who reports wrongdoing.

A "wrongful termination" is one in which an employer has discharged or laid off an employee in violation of a legal right of the employee. It is not enough for the employee to simply show that he/she was treated unfairly but the person must show that the firing was "wrongful" meaning one or more legal rights were violated. Almost every state has adopted the legal concept of "employment at will" which means that it is presumed that the employer has the right to terminate someone with or without a reason and likewise the employee has the right to quit at any time with or without a reason. There are a number of exceptions to the employee at will doctrine (the exceptions vary depending upon where the person worked) and those exceptions generally fall into the broad categories listed below:

Violations of Public Policy

Breach of Contract

Breach of Implied Contract

Breach of Covenant of Good Faith and Fair Dealings

Discrimination based on age, race, sex, disability, religion and/or national origin.

## At Will

In California, employees are presumed to be "at will." At-will employees may be terminated for any reason, so long as it's not illegal. Generally, employees that work under an employment contract can only be terminated for reasons specified in the contract. In California, the at-will presumption can be overcome by evidence that despite the absence of a specified term of employment, the parties agreed who the employer's power to terminate would be limited in some way.

**Contact our office to schedule a free consultation.**



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