



# Five Documents Sure To Appear In Employment Litigation

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Although simple and oftentimes overused, sports metaphors can provide insight to complicated topics. Thus, when it comes to employment litigation, cases often boil down to “blocking and tackling.” In other words, the fundamental (but not glamorous) activities often make a far greater difference than sophisticated lawyering.

Employment litigation can easily prove both complicated and time-consuming. Interpretations regarding legal concepts can rapidly evolve, based on court decisions, agency interpretations or actions by Congress or state legislatures. And even though claims are based on these changing laws, basic documents created by an employer lie at the core of an employment dispute. In litigation, these documents often make the difference between success and failure.

Five key documents arise most frequently. They vary in importance, depending on the claims asserted and the underlying issues, but they are almost always included among documents produced in employment litigation.

Although these documents most often appear in most employment litigations, they are not documents customarily created by litigators. Rather, the fundamental fact remains that litigators rely on the actions taken by human resources managers or supervisors before a claim ever exists. This includes documents that were either in place or created during the time that the underlying facts took place (with the exception of responses to administrative charges).

Like tackling and blocking in football, these documents are fundamental but not glamorous — generally requiring meticulous drafting or frequent revision. The impact that they make in litigation, however, can lead directly to success or defeat.

1. Job Descriptions
2. Handbooks
3. Performance Evaluations
4. Disciplinary Documents
5. Response to Administrative Charges

To sum up, the legal environment is often changing and uncertain. Nevertheless, these fundamental documents will usually appear during an employment litigation, and the time and effort spent in

documents will usually appear during an employment litigation, and the time and effort spent in drafting them will reduce later difficulties.

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