

OREGON WINE



SYMPOSIUM

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# The Prepared Employer: Employment Laws & Contracts

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# Agenda

Contracts relating to work on your property:

1. With Third Parties
2. With Employers

# Third Parties – Farm Labor Contractors

- Who drafts/provides the contract?
- What provisions are included? Omitted?
- Should I ask questions?

# FLC – Spotlight: Provisions



- **Fees and worker costs**
- **Reps & warranties**
- **Who employs workers & has responsibilities**
- **Insurance**
- **Indemnification, hold harmless, duty to defend**
- **Dispute resolution**

# Independent Contractors

- Who is an independent contractor?
- Should we have a written contract?

# Employees – Examples of typical agreements

Employment

Nondisclosure /  
Confidentiality  
**CAUTION**

Noncompetes /  
Nonsolicits

Intellectual Property  
Assignments

Arbitration

Separation/Severance  
**CAUTION**

# 1. Employment Agreements

- Why?
- At-Will or for a Term?
  - Example: *Term will begin \_\_\_ and run for \_\_\_ years unless terminated earlier pursuant to Section \_\_\_.*
- Compensation
  - Salary/wage
  - Bonuses?
  - Benefits?
  - Housing?

## 2. Offer Letters (examples only)

- **Offer:**

✗ *We are pleased to make this offer of employment with Company.*

**Better:** *We are pleased to make this conditional offer of at-will employment with Company, pending [\_\_\_\_\_].*

- **Comp:**

✗ *You will be paid \$ \_\_ per year as General Manager.*

**Better:** *Your starting salary will be \_\_\_\_\_. Your position is exempt and you are not eligible for overtime.*

**Or:** *Your starting wage will be \$\_\_\_\_/hour. Your position is nonexempt and you are eligible for overtime pay based on hours worked.*



## 2. Offer Letters (examples only)

- **Benefits:**

- ✗ *You will receive medical and dental insurance as an employee.*

- Better:** As an employee, you are **eligible** for certain employee benefits **pursuant to the terms of Company benefit plans** as they exist from time to time.*

- ✗ *You will receive health insurance once we set up a plan in March.*

- Better:** The Company **plans to offer** a health insurance plan, **targeted** for March, and you will receive information about **eligibility** for you and your dependents.*

- **PTO/vacation/sick**

- ✗ *2 weeks vacation; 1 week sick*

- Better:** Is **described in our Employee Handbook**, based on our **then-current policy** for all employees.*

- Or:** 2 weeks vacation and **40 hours** sick leave in your first year of **at-will** employment, as described in the **Employee Handbook**.*

# 3. Nondisclosure / Confidentiality

## 1. Definitions

- *Do your definitions comply with Oregon & federal law?*

## 2. Carve-outs for law:

- *Oregon Workplace Fairness Act (OWFA)*
- *National Labor Relations Act (NLRA)*
- *Defend Trade Secrets Act (DTSA)*
- *Information to government agency, subpoena, court order*
- *Information otherwise protected by law*

## 3. What does the business need to protect?



## 4. Noncompetes/Nonsolicits



*Spotlight on issues:*

- Employee salary, exempt/nonexempt status, access to information
- Duration
- What does the company really want to protect?

## 5. Arbitration



### *Spotlight on issues:*

- What is the purpose for choosing arbitration?
- Is arbitration really the best choice despite downsides?
  - Expected Deterrent?
  - Expected Confidentiality?
  - Expected Expense?
  - Expected Speed?
  - Waiver of class/collective actions?
  - Enforcement/Appeal?

## 6. Separation/Severance Agreements



### *Spotlight on Issues:*

- Legal compliance & risky provisions
- RIFs, WARN, and termination of 2 or more employees
- Seek legal guidance!



**THANK YOU!**