

# Celeb Staff

ABOUT THE GATEKEEPERS FOR THE RICH & FAMOUS

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## Legally Speaking

By Patrick A. Fraioli, Jr., Esq.



**W**ealthy or celebrity employers are targets because of their money and aversion to bad publicity. Reputations can be ruined overnight, and the bad publicity you get at the beginning may not be undone just because you are vindicated later. Staying out of the legal/media circus is often paramount. Everyone who hires people (whether as employees or independent contractors) should require them to sign an Employment Agreement or Independent Contractor Agreement. Here are the top five reasons why:

**1: Clarity.** Hiring someone opens the door to potential liability. That's a fact of life. Worse, in employment cases, there is often a huge element of "he said/she said." Without a written agreement, you may be exposed to significant liability simply because, for whatever reason, a former employee seems more believable on a given day.

A written agreement can clarify whether a worker is an independent contractor or an employee. The penalties for improper classification can be significant and painful. By putting your joint decision in writing, and then acting accordingly, you may more easily satisfy

the actual legal tests used to determine whether someone is truly an employee or independent contractor.

The nature of the relationship can also be clarified. An "at-will" employee may be terminated at any time for any lawful reason. If your written agreement, signed by the employee, confirms the "at-will" relationship, it will be difficult for the employee later to claim he or she was promised more than that.

**2: Non-disclosure.** Employees, especially household staff, are often given access to your home and family and many of your private moments. To protect your family's privacy and your own reputation, you should have your employees sign an agreement with enforceable non-disclosure obligations. It is a good practice generally to have one agreement, signed at the outset of the employment, that contains all such obligations.

**3: Policies.** Large employers have employee handbooks or policy manuals that address issues like vacation pay, sick days, job duties, and office or house rules. Get all of this straight at the beginning, when you are on equal footing, not once a dispute has arisen or the employee has become a family favorite.

**4: Liability.** Employers are sometimes liable for the actions of their employees. This can sometimes depend on whether the employee was "on the job." What if your employee takes his or her own car to run a personal errand before picking up your child after school and in the process hits and kills a pedestrian? The plaintiff will see a "deep pocket" employer. You will be sued, the claim being you that are responsible for the acts of your employee. If your agreement specifies duties and work hours and the errand in question is considered outside of this person's duties or work hours, you may be able to avoid liability.

**5: Evaluation/Termination Procedures.** You may be surprised by ex-employee claims that bad things went on for years. Without written evidence, it often comes down to a "he said/she said" standoff—which is enough to get a complaint filed and gets you lots of bad press. Setting up a process to field complaints and a requirement that they be made in writing can prevent an ex-employee from alleging a list of "false terribles" in a public complaint that will likely damage your reputation—even if they turn out not to be true. An ounce of prevention is worth a pound of cure.

### The Bottom Line

Written documentation that demonstrates the falsity of an ex-employee's claims can not only help you win but may also prevent a plaintiff's lawyer from taking the case at all. Defending the lawsuit brought by a former employee? Expensive. Getting your reputation back? Extremely expensive. Avoiding the whole mess entirely? Priceless. ☺

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