

30 C.J.S. Employer—Employee § 1

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Employer—Employee Relationship

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I. Introduction

§ 1. Employment relationship, generally

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West's Key Number Digest

West's Key Number Digest, Labor and Employment 1

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Agents may be either servants or independent contractors.²

The terms "servant" and "employee" are interchangeable.³ An employee/servant is a type of agent whose physical conduct is controlled or is subject to the right to control by the master; the servant's principal, who controls or has the right to control the physical conduct of the servant, is called the master.⁴ A typical master/servant relationship involves an employee acting on behalf of an employer,⁵ though the employer-employee relationship does not create a principal-agent relationship when third parties do not interact with the employee.⁶

There is authority that an employee owes a duty of fidelity and loyalty to the employer.⁷ However, there is also authority that a fiduciary relationship does not arise between a corporate employer and its employee,⁸ or is very limited in scope in the case of employment at will,⁹ and that the employment relationship itself does not create a confidential relationship.¹⁰ A general duty of fair dealing in employment situations does not exist in federal law.¹¹

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Footnotes

- 1 U.S.—Manning v. Boston Medical Center Corp., 725 F.3d 34 (1st Cir. 2013) (applying Massachusetts law).
As to the contractual basis of the relationship, generally, see § 6.
- 2 Wis.—Romero v. West Bend Mut. Ins. Co., 2016 WI App 59, 371 Wis. 2d 478, 885 N.W.2d 591 (Ct. App. 2016), review denied, 2017 WI 8, 374 Wis. 2d 156, 2016 WL 8230624 (2016).
As to independent contractor status, see §§ 12 to 19.
- 3 Wis.—Romero v. West Bend Mut. Ins. Co., 2016 WI App 59, 371 Wis. 2d 478, 885 N.W.2d 591 (Ct. App. 2016), review denied, 2017 WI 8, 374 Wis. 2d 156, 2016 WL 8230624 (2016).
- 4 Ind.—Vinup v. Joe's Const., LLC, 64 N.E.3d 885 (Ind. Ct. App. 2016).
Wis.—Romero v. West Bend Mut. Ins. Co., 2016 WI App 59, 371 Wis. 2d 478, 885 N.W.2d 591 (Ct. App. 2016), review denied, 2017 WI 8, 374 Wis. 2d 156, 2016 WL 8230624 (2016).
- 5 Wis.—Romero v. West Bend Mut. Ins. Co., 2016 WI App 59, 371 Wis. 2d 478, 885 N.W.2d 591 (Ct. App. 2016), review denied, 2017 WI 8, 374 Wis. 2d 156, 2016 WL 8230624 (2016).
- 6 Ga.—Avion Systems, Inc. v. Bellomo, 338 Ga. App. 141, 789 S.E.2d 374 (2016).
- 7 Ill.—Corroon & Black of Illinois, Inc. v. Magner, 145 Ill. App. 3d 151, 98 Ill. Dec. 663, 494 N.E.2d 785 (1st Dist. 1986).
- 8 R.I.—Bader v. Alpine Ski Shop, Inc., 505 A.2d 1162 (R.I. 1986).
- 9 N.Y.—Budet v. Tiffany & Co., 155 A.D.2d 408, 547 N.Y.S.2d 81 (2d Dep't 1989).
- Abruptly quitting job**
An employee did not breach any fiduciary duty he owed to his employer when the employee walked off the jobsite without notifying anyone of his intent to resign, while knowing that he was the only employee on the jobsite in a foreign country, and thus the employer was not entitled to a setoff against the employee's claim for unpaid wages; as an at-will employee, the employee could quit at any time without liability to the employer.
- La.—Harrison v. CD Consulting, Inc., 934 So. 2d 166 (La. Ct. App. 1st Cir. 2006).
- 10 Cal.—Amid v. Hawthorne Community Medical Group, Inc., 212 Cal. App. 3d 1383, 261 Cal. Rptr. 240 (2d Dist. 1989).
- 11 U.S.—Butz v. Hertz Corp., 554 F. Supp. 1178 (W.D. Pa. 1983).
Implied term of fair dealing in employment contracts, see § 24.