

Employment Relationships

Types of employment relationships recognized by law

There are four types of relationships you can have when you hire someone/ are hired by someone.

1. The Employer/Employee Relationship
2. The Employer/Independent Contractor Relationship
3. The Principal/Agency Relationship
4. The Master/Servant Relationship

Employer/Employee

An employer hires an employee to work for him/her.

- The employee works under the direction of the employer.
- The employer deducts social security and taxes from the employee's pay and pays worker's compensation.
- The employee is not hired to complete a single task. There is an ongoing relationship between employer and employee and the employee is paid regularly.
- Employers are liable for the torts and contracts of their employees.

Employer/Independent Contractor

An employer hires an independent contractor for one job.

- Independent contractors work at their own discretion. They decide how much to charge and how to perform the work.
- Independent contractors are paid, then must take care of their own taxes and insurance.
- There is no ongoing relationship between the employer and the independent contractor. The relationship is over once the job is complete.
- Employers are NOT liable for the torts and contracts of independent contractors.

Principal/Agency

This is a special type of employer/employee relationship.

In this relationship the principal (employer) delegates responsibilities to the employee (agent) who is empowered to act on the principal's behalf and can bind the principal into contracts he/she enters with third parties.

Creating a principal/agency relationship

A principal/agency relationship can be formed in a number of ways.

1. By agreement – The most common. Two parties agree that one is the principal and the other will act as his/her agent.
2. By ratification – When a principal assents to a previously unauthorized contract of an agent.
3. By estoppel – If a principal misleads a third party into believing that a person who is not his agent is in fact his agent, the principal will be bound to contracts entered into by the false agent.

Master/Servant

This is a another special type of employer/employee relationship.

If an employee commits a tort in the course of carrying out the employer's business, the language of the law changes from that of employer/employee to that of master/servant. The master (employer) is liable for the torts of the servant (employee) if the servant is within the scope of employment.

Respondeat Superior

The master responds for the torts of his/her servants.

This means that if an employee is acting within the scope of employment and commits a tort, then the employer must pay for the damages.