Have you properly excluded your individual inventions prior to accepting your job offer?

As a term and condition of your employment, a New York employer may have you sign an agreement setting forth under what conditions an invention you create and develop during the course or after the cessation of your employment becomes the employer’s property. The terms and conditions of such agreements can differ between employers and can be negotiated to ensure protection of projects started prior to, during, and after employment. It is highly advisable should a contract involve the assignment of individual inventions to consult with a legal professional.

Assuming your employment is “at will,” can you negotiate for contractual protections?

Yes. Although a New York employer is under no obligation to provide you with contractual protections under the law (except for instances where the position is represented by a union), negotiating a contract that affords a more secure employment is advised. It is important to remember that when an employer selects an individual to be hired, the employer has determined that the individual will benefit the organization or company. Thus, the employee is not without some leverage for negotiations, which can be exercised to reach an agreement that is beneficial to all parties.

Does your salary match the salary of your co-workers?

There is no requirement for an employer in New York to post or set a pay scale for an open position. However, when applying for a position in New York State, employers are prohibited from, either orally or in writing, personally, or through an agent, asking any information concerning a prospective employee’s salary history. Furthermore, it is unlawful for an employer to inquire as to a prospective employee’s past salary history. Additionally, it is unlawful for employers to restrict an employee’s ability to inquire about, discuss, or disclose wages with other employees except under a written policy that provides reasonable workplace and workday limitations on the time, place, and manner such employees can discuss or disclose their wages. Importantly, New York State’s Equal Pay Act prohibits an employee from being paid less than another employee of the opposite sex for equal work that requires equal skill, effort, and responsibility that is performed under similar working conditions. An employee or prospective employee should use all avenues available to them to ensure the employer is in compliance with the Equal Pay Act. It is also important to note that New York prohibits the employer from taking retaliatory actions against an employee for make such inquiries.

Does your job offer require that you sign a non-compete agreement?

There is no New York law that requires you to sign a non-compete agreement. However, an employer may require you sign a non-compete agreement as a term and condition of employment. Even when an employer requires you to sign a non-compete agreement, however, the non-compete agreement is only enforceable to the extent it 1) is necessary to protect the employer’s legitimate interests, 2) does not impose an undue hardship on the employee, 3) does not harm the public, and 4) is reasonable in time period and geographic scope. When determining the enforceability of an agreement, Courts consider the employee’s duties and responsibilities, the validity of the protected interest, the length of the agreement, and the geographic scope. It is important to note that a Court may only invalidate or modify the particular terms of a non-compete agreement it finds to be unenforceable, leaving the rest of the agreement in place with terms and conditions in accordance with the law.

Does your job offer require that you sign a forced arbitration agreement?

As a term and condition of employment, a New York employer may require you to enter into an arbitration agreement with the organization or company. Entering into such an agreement may result in the waiver of the ability to pursue a claim in the applicable court of law, waive a right to a trial by jury, or even put limits on when an claim may be brought. It is important to thoroughly read an arbitration agreement and understand what rights may be waived and what claims are subject to the agreement. Also, as a prospective employee, you may inquire if the employer will allow you to opt-out of the arbitration process, thus providing you the opportunity to enforce a claim under the full authority of the applicable law.

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