

Five Distinctive Things About Ohio And Employment Law

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**William A.
Nolan**

Partner
Columbus
Managing Partner

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As an employer lawyer in Columbus, I have to make this week's letter O be for Ohio. Here are five distinctive things that help define Ohio employment law:

1. Ohio is a very pro-enforcement noncompete state. Two key variations in state laws largely shape the enforceability of noncompetes in a state. One, will courts modify an overly broad noncompete to "make it enforceable?" Two, is continuing employment sufficient consideration to support a noncompete (as opposed to some additional consideration being required)? Ohio has given an unambiguous "yes" to both of those questions, make it an enforcement-friendly state.
2. Ohio's workers compensation system is a state monopoly. Unlike most states, private insurers have no part of it.
3. Ohio has an "employer intentional tort" that provides the possibility of damages to injured employees in addition to what the employees get from the workers compensation system. Historically the contours of this claim have been the subject of substantial back and forth between our General Assembly and our Supreme Court. With all branches of Ohio government dominated by one party now, the claim is more narrowly defined than it has been during my legal career.
4. Ohio tends not to be on the front edge of defining employment claims and regulation. Protected classes that are developing in the various states generally are not yet recognized here. We do not currently prohibit discrimination on the basis of sexual orientation at the state level, and we do not have a law prohibiting action based on off-work conduct as some states are starting to have. Employers are generally free of regulation in their drug testing policies. In these and other respects, employers generally have more freedom in Ohio than in many states.
5. Different parts of Ohio are very different. This is true to some degree of most states, but the differences among Ohio's major cities, and each of those compared to its rural areas, are striking in what employers can expect from courts. Ohio really *is* more diverse in terms of how different parts of the state are different. One observer [divided the United States into 15 regions](#) without regard to state lines. Parts of four of them are in Ohio – Appalachia, Down South, Old Industry, and Down South. Perhaps not quite as on point but to the same point, [see this map of leading religions by county](#) and see if any state has more colors than Ohio.

Readers outside Ohio, I hope this is a good quick introduction. Ohio readers, what did I leave out?