

The Legal Strategist

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THIRD QUARTER 2013

TEXAS ESOTERIC FACTS

Texas is both an “At-Will” and “Right to Work” state. But what does that mean? Are they the same and can the terms can be used interchangeably? Or are they vastly different concepts with divergent meanings? This Quarters topic is intended to set the record straight and offer guidance between these two concepts.

- ◆ A \$60 million treasure of gold plundered by Coronado is believed to be buried on an 80-acre pasture at the Sems Ranch near Clyde, Texas
- ◆ The city of Slaughter, Texas, has never had a homicide

The following Feature Topic is a cursory review. The information contained in this newsletter is not, nor is it intended to be, legal advice, or does viewing this newsletter create an attorney-client relationship. You should consult an attorney for individual advice regarding your own situation If you would like more information on this, or any other topic previously covered in our newsletter, which can be viewed on [The Legal Strategist](#) tab of our web site, *Scott Barrett*

FEATURE TOPIC:

AT-WILL” vs. “RIGHT TO WORK”



When speaking with clients, I have noticed a wide spread confusion between “At-Will” and “Right to Work”. At-will employment means that either party in an employment relationship can end the relationship with or without cause and with or without notice, with a few exceptions to that rule. On the other hand, right-to-work refers only to collective bargaining and union issues.

Texas is an “employment-at-will” state. Generally, employees without a written employment contract can be fired for good cause, bad cause, or no cause at all. In an at-will situation, either the employer or employee may terminate the employment relationship at any time, with or without warning, and with or without cause, unless there is an existing agreement with express terms and conditions covering its termination.

Of course, the employment-at-will doctrine is not without its limits. Terminations initiated by the employer must not be discriminatory or in violation of specific federal or state laws. For example, the employer is legally prohibited from taking any “adverse employment action” against an employee because of their fling a complaint of discrimination on the basis of race, color, religion, age, sex, national origin or disability; filing a workers’ compensation claim; jury service; refusing to perform an illegal act; or reporting violations of law.

Texas is one of only 22 states with "right-to-work" provisions. Right-to-work laws are state statutes that ban the practice of requiring union membership or financial support to a union as a condition of employment and provide employees with individual bargaining rights. These laws establish the legal right of employees to decide for themselves whether or not to join or financially support a union. Under the Texas Right-to-Work Act, employees have the right to bargain either individually or collectively, the right not to have money held from a paycheck for union dues without their consent and the right to not be denied employment based on union membership. Furthermore, it is illegal for an employer to refuse to hire a potential employee because the employee wants to join a union.

Simply stated, under the Texas Right-to-Work Act, it is unlawful for any company or organization in Texas to require an employee to join a union or pay union dues in order to be employed or to maintain his employment. It is also unlawful in Texas for any employer to refuse to hire or maintain the employment of an employee because the employee desires to join a union. Texas courts have found that the Texas Right-to-Work Act is intended to protect employees in the exercise of their right of free choice of joining or not joining a union. Any attempt by a company or organization to infringe on this right may result in a civil lawsuit brought by the state on behalf of the aggrieved employee.

If you would like more information on this topic, please contact [Scott Barrett](#) to set up a consultation.