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Ten Things Your Boss Doesn't Want You To Know

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This is a guest post by Donna Ballman, a Florida employment lawyer and author of the book, [Stand Up For Yourself Without Getting Fired: Resolve Workplace Crises Before You Quit, Get Axed or Sue the Bastards](#). Her blog is [Screw You Guys, I'm Going Home](#) and she tweets as [@EmployeeAtty](#).

Your boss is secretly smiling. He knows things you don't about your workplace rights. And what you don't know about those rights can destroy your career or even get you fired. Understanding those rights can help you wipe that smile right off his face. Here are 10 things you need to know.



Photo: Getty Images

1. You have the right to discuss working

conditions with co-workers. The [National Labor Relations Act](#) or NLRA guarantees most non-supervisory employees in the private sector the right to talk about working conditions with co-workers. Does your company try to keep you from comparing salaries or benefits with co-workers? They may be breaking the law. If you have a contract or policy saying you can't discuss wages and benefits with coworkers, you can file a [Charge Against Employer](#) with the [National Labor Relations Board](#) (NLRB).

2. You have the right to discuss working conditions. Even if you were not a whistleblower, the [NLRB](#) says that employers last Fall weren't fired in

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2. You have the right to complain or protest about working conditions. Ever wonder why the [Wal-Mart strikers](#) last Fall weren't fired in one swoop? That's because they were [legally protected](#). The NLRA says you have the right to protest and object to workplace conditions. If you do it on just your own behalf, you aren't protected. So make sure, if you complain, to discuss how the policy or working conditions affects co-workers.



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3. You have the right to keep copies of documents you sign. Remember that pile of papers you signed without reading when you started this job, or that confidentiality agreement your boss shoved in front of you? Somewhere along the way you may have agreed not to work for a competitor; or not to solicit or communicate with clients, vendors and employees of the company for a year or two. It's also conceivable that you gave up the right to a jury trial or agreed to arbitrate any disputes against your employer, rather than suing.

Whether you're leaving the company, or plan to hang your hat there for a while, get a copy of everything you sign when you sign it. If it's too late for that, ask to see a copy of your personnel file so you can get copies. If your company says they don't have to give it to you, they may be right in some states; know your rights before you have a dispute. But you can still try saying, "How am I supposed to know what I'm not allowed to do if you won't give me a copy of my agreement?"

If they still won't give a copy, send the head of personnel an email or letter saying that you have asked for a copy of any agreement you signed; that the company has not provided it; and that you will proceed on the assumption that there are none unless they give you a copy within 72 hours.

4. You should read and get a copy of your employee handbook. This document is chock full of important information. Some companies have employees sign a paper saying they've received it, but never give it out. Others keep it locked away. Your handbook has important information about discrimination, harassment, sick leave, personal leave, and Family and Medical Leave.

You should read and be familiar with your rights and responsibilities before you have a crisis. You don't want to be scrambling for information while you're on the way to the hospital, after you've been [groped by a supervisor](#), or if you've been subjected to illegal harassment.



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As Senior Editor with an entrepreneurial spirit. Having worked as a lawyer, I gravitate towards legal subjects, especially law as it intersects: personal finance, the workplace and small business. My latest book is Estate Planning Smarts -- a guide for baby boomers and their parents. This contributor's page will cover the broad range of topics that affect boomers as they approach retirement age. That means everything from [show more](#)

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5. Your employee handbook may have illegal provisions. Many handbooks contain policies the NLRB considers illegal. Some policies the NLRB has recently found unlawful include at-will employment (your employment is still likely at-will, but the policy might be illegal), prohibitions against discussing wages, prohibitions against saying negative or disparaging things about the company, confidentiality (to the extent it keeps you from discussing working conditions), and their social media policy.

6. A hostile work environment is not necessarily illegal. A hostile work environment (sometimes described as harassment or workplace bullying) is only illegal if it's due to some legally-protected status, such as: race, age, sex, religion, national origin, disability, taking Family and Medical Leave or whistleblowing. One example of an illegal hostile environment is being subjected to racial or ethnic slurs. If you've been subjected to an illegal hostile environment due to a legally-protected status, make a formal complaint under the company's harassment policy.

7. You don't have the right to free speech at work. If you complain about bullying, a hostile environment or anything that is not illegal, you aren't protected against retaliation. You can be fired for your speech in the workplace (or even outside the workplace) if you don't work for the government. If you write a long letter to the CEO complaining that your boss is unprofessional, you aren't protected. If you have a loud argument with your co-worker about a hot political issue, you have no legal protection either.

8. You are probably not an independent contractor. Your employer may try to classify you as a contractor to avoid paying its share of employment taxes and evade coverage under most employment laws. But they probably got it wrong. If your company controls the time, place and manner of your work; hires or fires your assistants; does evaluations; pays for vacation; or says you can only work for them, you are probably an employee.

The Internal Revenue Service has a handy-dandy form to fill out if you think you are misclassified. If you're right, you may be able to recover back taxes that are owed to you through the IRS or through a lawsuit. You also have rights under discrimination, wage and other employment laws. When in doubt, contact an employment lawyer in your state.

9. You may be entitled to overtime pay. Employers use a variety of tricks to avoid paying overtime. For example, they might: misclassify you, telling you that you're salaried and therefore exempt; require off-clock work, combining exempt and non-exempt duties; require on-call or off-hours work; make you wait to clock in; and pretend not to know you worked through lunch to avoid paying you. Unless you are exempt, you are entitled to be paid time and a half for all hours worked over 40 per week. If you think you aren't being paid the overtime you're entitled to, you can either file a complaint with the Department of Labor or contact an employment lawyer about filing a suit for your unpaid overtime.

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10. Your company might make a grab for your social media

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contacts when you leave. Employers have been known to claim they own former employees' LinkedIn, Facebook, Twitter and other contacts. If you signed an intellectual property agreement, they'll claim that they own anything you wrote or thought of while you worked there. They might also claim they own your blog or anything you've written (like the novel you've been secretly writing at night). If you have a non-compete or non-solicitation agreement, they'll claim you have to delete all the customer, vendor and employee contacts you've built up.

Social media has been in the news lately in connection with departures from news organizations. In one case, an employer is claiming the employee should have to pay them \$2.50 per Twitter follower. In another, a former employee was allowed to walk away with 75,000 followers.

If you have a huge following in social media related to work, the ownership of that following might give you leverage when it comes time to negotiate severance. If your employer wants you to turn over your tweeps, you may be able to get them to pay for that right. On the other hand, if your social media is important to you, it might be worth giving up some severance so you can keep them. Before you leave, review your agreements carefully. You may want to consult a lawyer to discuss your rights to your social media before you make your move.

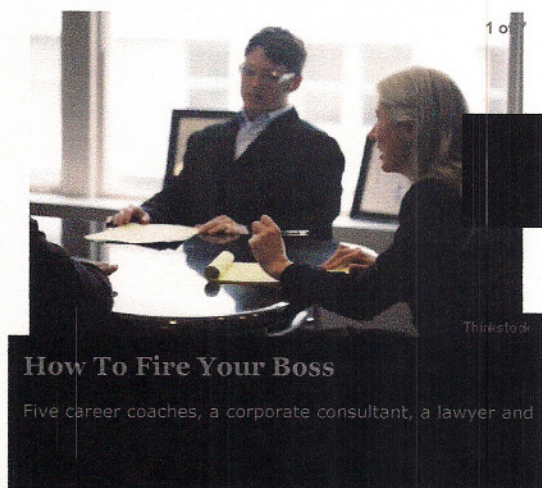
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