

What Legally Counts as Wrongful Termination? An Employment Lawyer Explains How to Protect Yourself and Know Your Rights

June 10, 2025 • Legal Updates & Insights

By [Douglas H. Wigdor](#)

[Originally published on Entrepreneur.com](#)

No one wants to hear the dreaded two words “you’re fired,” especially without good reasoning. Maybe [being fired](#) is the sign you needed to make your own entrepreneurial side hustle your full-time hustle, but what if you were wrongfully terminated and you could recover damages?

One of the biggest concerns I hear from both employees and small businesses is knowing their legal rights when it comes to termination. Understanding what constitutes an unlawful termination is the first step in [protecting against legal issues](#) in the future. I have handled high-profile cases of wrongful termination against the largest companies, and most cases have the same common threads, including discrimination, harassment, Family Medical Leave Act (“FMLA”) violations and retaliation.

To clarify, not all dismissals are considered wrongful. Assuming you are an employee at will with no contract of employment, you can be terminated for any reason or no reason at all — so long as the motivating reason was not unlawful. While a termination may be unfair or unwarranted, that does not mean it is unlawful. Therefore, it is important to know what types of terminations fall into the unlawful category.

Related: [Terminating an Employee? These Are the Legal Ins and Outs You Need to Know](#)

Types of discrimination that lead to wrongful termination

What exactly is [wrongful termination](#) and what laws can you reference to advocate for yourself? Termination becomes “wrongful” or “unlawful” when an employer fires someone or treats them differently based on characteristics protected by law, including gender, race, age, sexual preference, disability and religion. If you fear you have been wrongfully fired, demoted or treated differently in a material way and are ready to fire back, there are several important federal laws to have in your back pocket:

1. **The Civil Rights Act of 1964 (Title VII):** Time and time again, discrimination cases point back to this. This monumental legislation forbids employment discrimination against individuals based on race, religion, sex and national origin. It covers all facets of employment including terms, conditions and compensation, from hiring (yes, before you even set foot in the office) through

firing.

2. **The Americans with Disabilities Act (ADA):** Employees with disabilities are protected against discrimination throughout all stages of employment decisions, from hiring to promotions to firing. But it's not just your right to be there; if you are qualified, it's your right for that job to be accessible. Employers must also provide reasonable accommodations based on a disability. Wigdor LLP won the largest [single-plaintiff verdict](#) ever under the Americans with Disabilities Act in 2014, which recovered \$7.5 million in a trial for our client against Walmart.
3. **The Age Discrimination in Employment Act (ADEA):** Age discrimination is a recurring theme in cases we see; however, unfair treatment of anyone over 40 (including hiring, firing, pay, job assignments, promotions, layoff, training and benefits) is prohibited.
4. **The Pregnancy Discrimination Act (PDA):** Since 1978, this federal law has prohibited employment discrimination related to pregnancy. Unfortunately seeing discriminatory treatment towards those on the "mommy track" is still as relevant today as ever. This may include refusing to hire, firing or taking away benefits or seniority due to maternity leave or the announcement of a pregnancy. I also recommend looking at local pregnancy laws like state laws that can provide additional benefits.

Related: [6 Often-Mandatory Employee Benefits Every Leader Needs to Keep on Their Radar](#)

Fired after FMLA leave

Many of my cases of wrongful termination relate back to pregnancy discrimination violating the [FMLA](#). Since 1993, the Family and Medical Leave Act (FMLA) has provided eligible employees with up to 12 weeks of unpaid leave per year for their health condition, a family member's health condition or to care for the birth or adoption of a child. It protects employees from job loss or retaliation before, during or after this medical leave.

Imagine coming back from maternity leave only to find your position eliminated or that you have been inexplicably reassigned to a very different job. This could be a serious FMLA violation. Wigdor's suit against [Avon](#) was regarded as the first U.S. suit on behalf of women who pump breast milk as a class, our client felt marginalized for taking short breaks to express breast milk, which is a protected activity.

Retaliation and wrongful termination

Retaliation happens when terminating an employee is punished for engaging in a legally protected action, such as making a complaint about the company's business practices or calling out discrimination. Whistleblowers are legally protected (we all remember Serpico, right?), so if an employee reports unethical or illegal company activity and is then fired, that could be considered [whistleblower retaliation](#).

Signs of wrongful termination

1. **Timing is crucial:** If the timing of the firing is directly after the announcement of a pregnancy or medical diagnosis or after you've raised a red flag about a company policy or supervisor, your

termination may be suspect.

2. **Unfair treatment:** If you've been treated differently than others in similar circumstances and then fired, you may have cause for complaint.
3. **Negative performance reviews:** Performance reviews that denigrate your work but are not grounded in specific examples could signify your boss is preparing to terminate you without cause.

Related: [X Told to Pay \\$600,000 to Ex-Twitter Worker Who Was Dismissed For Not Responding to Elon Musk's 'Extremely Hardcore' Demand, Reports Say](#)

What to do if you believe you were wrongfully terminated

I always tell my clients, the more documentation you can collect the better. It is very helpful to keep all notes, messages or meeting recordings that could help prove that you were not fired due to poor performance but because your employer discriminated against you or disagreed with your participation in a legally protected action.

Check your employee handbook or contract — you might find that specific rules were violated and strengthen your case. When in doubt, talk to a lawyer for specific advice depending on your case and your state and local laws. It may help to file a complaint with HR and with the EEOC or other relevant groups. It's often the goal to resolve a matter before litigation is needed, and if you have a full understanding of both the laws protecting you and the steps you can take if you suspect wrongdoing, you'll have your best chance of making that happen.

For questions related to wrongful termination, employment law, civil rights law, and/or sexual harassment and discrimination, [connect with a Wigdor attorney today](#). To read this and other insightful articles, [visit Entrepreneur.com](#).