

Fraud or Misrepresentation in the Workplace

YOUR LEGAL RIGHTS

1. What is fraud?

Fraud occurs in the workplace when an employer misrepresents (spoken or in writing) something about your job. Fraud may arise when an employer makes a false representation concerning job security, salary, potential bonuses or promotions, health risks, or other aspects of employment. (See specific examples of fraud listed below.)

2. How do I prove fraud?

To win a claim for fraud, you must show:

- A past or existing fact was misrepresented to you (or a fact was hidden from you);
- Your employer knew the representation was untrue;
- Your employer intended for you to take action when you relied on the false statement;
- You reasonably relied on the representation to your disadvantage; AND
- You suffered damages and/or injury.

3. What are some examples of fraud?

You may have a claim for fraud if your employer knowingly makes false promises of high salaries or guaranteed bonuses to persuade you to quit your former job and come to work for him, but later refuses to pay.

You may also have a claim if you have relocated because you believed your employer's representations about any one of the following: the kind of work, the existence of work, the length of time the work would last, the amount of pay for the work, the sanitary conditions of the work, or the existence or nonexistence of any strike or lockout. In California, you have a right to extra damages under Labor Code § 970 if you relocate based on your employer's misrepresentations.

4. What is not fraud?

If you are an at-will employee and your employer tricks you into resigning or quitting, you do not have a claim. (Being "at-will" means your employer has the power to fire you at any time. See our Fact Sheet titled "**Wrongful Termination**" for more information about "at-will" employment.) Since you are an at-will employee, your employer could have fired you outright instead of misleading you into resigning.

5. How can I bring a fraud claim against my employer?

For most fraud claims you will need to file in State Superior Court or Small Claims Court. The amount of “damages” you are owed will usually determine which court you will want to file in. For smaller cases, small claims court might be your best bet. In small claims court, you do not need to find a lawyer, but the maximum amount you can recover is \$7,500. The turnaround on small claims court claims is usually faster than superior court. The court hearing is normally held within 30 to 70 days after the claim is filed. See the California Courts Self-Help Center for more information: <http://www.courtinfo.ca.gov/selfhelp/smallclaims/>. Many counties also have a Small Claims Legal Advisor’s Office that can help you with your claim.

For larger cases with bigger damages, you can file in state court, but you will generally need to hire a lawyer, which might be difficult to find unless you have a particularly large case. If you are not sure where to find a lawyer, you can start by contacting your local Bar association and asking for a referral. Many questions about filing in court can also be answered by the Superior Court Clerk.

If you believe your employer has violated Labor Code § 970 (you relocated based on your employer’s misrepresentations), you need to file with the Department of Labor Standards Enforcement (DLSE). A list of local DLSE offices can be found at: <http://www.dir.ca.gov/dlse/DistrictOffices.htm> or by calling (415) 703-5300. A claim for fraud under the Labor Code must be filed within one year from the date of the misrepresentation.

This fact sheet is intended to provide accurate, general information regarding legal rights relating to employment in California. Yet because laws and legal procedures are subject to frequent change and differing interpretations, the Legal Aid Society - Employment Law Center cannot ensure the information in this fact sheet is current nor be responsible for any use to which it is put. Do not rely on this information without consulting an attorney or the appropriate agency about your legal rights in your situation.

For further information about your employment rights, please call:

The Workers’ Rights Clinic

415-864-8208 (SF Bay Area) or 866-864-8208 (Toll Free in CA)

The Workers’ Rights Clinic is a project of The Legal Aid Society - Employment Law Center, a non-profit organization focusing on the employment-related legal rights of low-income workers and providing free legal information on a wide range of employment-related problems.