



What's New in HR Law

Navigating Business Growth: A Guide for Social Media Influencers

March 26, 2024 | By Michael Lee

Bottom Line: Evaluate the Terms of Your Relationships as Your Business Expands

Social media influencers embarking on the journey of growing their own businesses often face two pivotal challenges: (i) hiring additional support for product or service management; and (ii) engaging a talent manager to enhance their business and social media presence.

Both challenges can be successfully navigated, with careful consideration of hiring practices and well-structured talent management agreements. Properly executed, these practices and agreements can help facilitate successful business growth while minimizing the risk of unforeseen liabilities.

1. Deciding Between Contractors and Employees

As an influencer, you may consider hiring an individual to oversee aspects of your social media activities, such as responding to product-related posts or generating content about your products or services. Perhaps you want assistance with product packaging, return processing, or managing customer feedback and engagement. Regardless of the tasks being performed by a worker, understanding the true nature of your relationship is crucial for accurately classifying and documenting it.

This article is for the purposes of only general information and does not constitute legal advice or opinion.

Worker Classification: Independent Contractors, Employees, and Dependent Contractors

Independent Contractors offer services to clients (often but not always through their own business), and generally working for multiple clients. When engaging an independent contractor, influencers should be mindful of their written agreements. While an agreement can help mitigate some risk where the worker may resemble an employee or dependent contractor type relationship, the type of working relationship will ultimately depend on the particular circumstances of the relationship and what the person actually does as opposed to what the agreement provides. In these scenarios, you may wish to incorporate provisions regarding the worker's entitlements upon termination of the contractual relationship, in the event an adjudicator later decides they are a dependent contractor or employee.

In contrast, **employees** work within an employer's business framework, contributing directly to its operations under the employer's control. Employees have rights under employment standards legislation, including but not limited to notice of termination, vacation pay, entitlements with respect to public holidays, and job-protected leaves of absence. Without a clearly drafted employment agreement, and upon the termination of the employment relationship, employees may be entitled to more than as prescribed by statute.

Dependent contractors occupy a middle ground. Such workers may not have the same statutory entitlements under employment standards legislation as employees. However, like employees, dependent contractors that are engaged without an agreement with an enforceable termination clause may also be entitled to reasonable notice or compensation in lieu upon the termination of their engagement.

Classifying the Worker

To distinguish between an independent contractor and employee, adjudicators consider a variety of factors, including:

- the degree of control exercised over the worker,
- whether the worker owns the equipment they use in the performance of their duties,
- the chance of profit or risk of loss associated with performing the work, and
- whether the worker is only working for one entity.

In assessing whether a worker is an independent or a dependent contractor, an adjudicator will consider whether the worker is "economically dependent" on the specific client in question.

Ultimately, an adjudicator will apply these factors to assess the true nature of the relationship with the worker, not simply what has been agreed to in writing. As influencers grow their businesses, it is important to understand the type of assistance they need for their business, determine the type of contractual relationship for their workers and then properly document the relationship (and classify the relationship correctly) and have any agreement signed prior to the working relationship commencing.

2. Talent Management Contracts: Benefits and Risks

As influencers gain popularity, they can attract the attention from talent management companies offering to enhance their brand and increase their online presence. While these partnerships can be beneficial, influencers should be mindful that such contracts can be relatively one-sided and can include contractual

terms that may restrict their control over their work and entitle the management company to a significant portion of the influencer's income, even after the relationship ends.

Key Take Away: Growing Without Undue Distractions and Liabilities

The success of an influencer's business expansion involves attention to the contractual terms governing relationships with workers and talent managers. Early consideration and strategic planning can prevent the distraction of future disputes, allowing more focus on growth and customer service.

Need More Information?

For more information or assistance with hiring practices and reviewing talent management agreements, contact [Michael Lee](mailto:mlee@filion.on.ca) at mlee@filion.on.ca or your [regular lawyer](#) at the firm.



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