

# DOES THE PNC HAVE A VIABLE EMPLOYMENT

*The Attorney's Quick Guide To Determining  
Which Claims Are Worth Pursuing*



**OBAGI LAW GROUP, P.C.**  
THE EMPLOYEE'S LITIGATORS

811 Wilshire Boulevard, Suite 1721

Los Angeles, California 90017

424-284-2401 | [www.obagilaw.com](http://www.obagilaw.com)

*We pay referral fees to attorneys per the*

*This guide is informational only and  
not to be construed as legal advice.*

# DOES THE PNC HAVE A VIABLE EMPLOYMENT CLAIM?

Nearly all of the PNC claims you will field will involve at least one of three primary elements.



## DISCRIMINATION AGAINST A PROTECTED CLASS

- Age (over 40)
- Ancestry / national origin
- Disability (mental and physical)
- Familial status
- Gender expression
- Gender identity
- Genetic information
- Marital status
- Medical condition
- Military / veteran status
- Pregnancy status
- Race / color
- Religion / creed
- Sex / gender
- Sexual orientation

## ILLEGAL ADVERSE ACTION / DISPARATE TREATMENT OR HARASSMENT

- Increase in co-workers' pay / cut in PNC's pay
- Promotion for co-worker / demotion for PNC
- Loss in title
- Refusal to hire
- Termination / threat to job security
- Transfer to another department / location
- Unwanted sexual advance / touching
- Using sexually suggestive language or describing sex acts
- Using racist language / displaying racist images
- Telling offensive jokes about protected class(es) of people

## RETALIATION FOR TAKING PART IN PROTECTED ACTIVITY

*Most common protected activities:*

- Filing a workers' compensation claim
- Alerting law enforcement or other government agencies about the employer's about illegal activity
- Safety-based actions, which includes filing a complaint with Cal / OSHA or other agency regarding working conditions
- Requesting reasonable accommodations to work with a disability
- Complaining about discrimination or harassment in the workplace
- Refusing to participate in illegal activity

## Other potential causes for employment claims

### Wage / hour claims

- Was PNC misclassified as independent contractor?
- Was overtime rate of pay appropriately made to PNC?
- Did employer provide paid rest and meal periods as required?

### Disability discrimination (15+ employees)

- Did employer fail to engage in the process to determine reasonable accommodations?
- Did employer discriminate / retaliate based on disability?

### Medical / family leave claims (50+ employees)

- Did PNC make protected request for family medical leave?
- Did the employer properly evaluate and respond to request?
- Would employer have taken the action without PNC having ever made the request for leave?

### Workers' compensation

- PNC must be an employee, not an independent contractor
- PNC must have workplace injury or occupational illness due to work environment
- Did PNC give sufficient written notice re. medical condition?

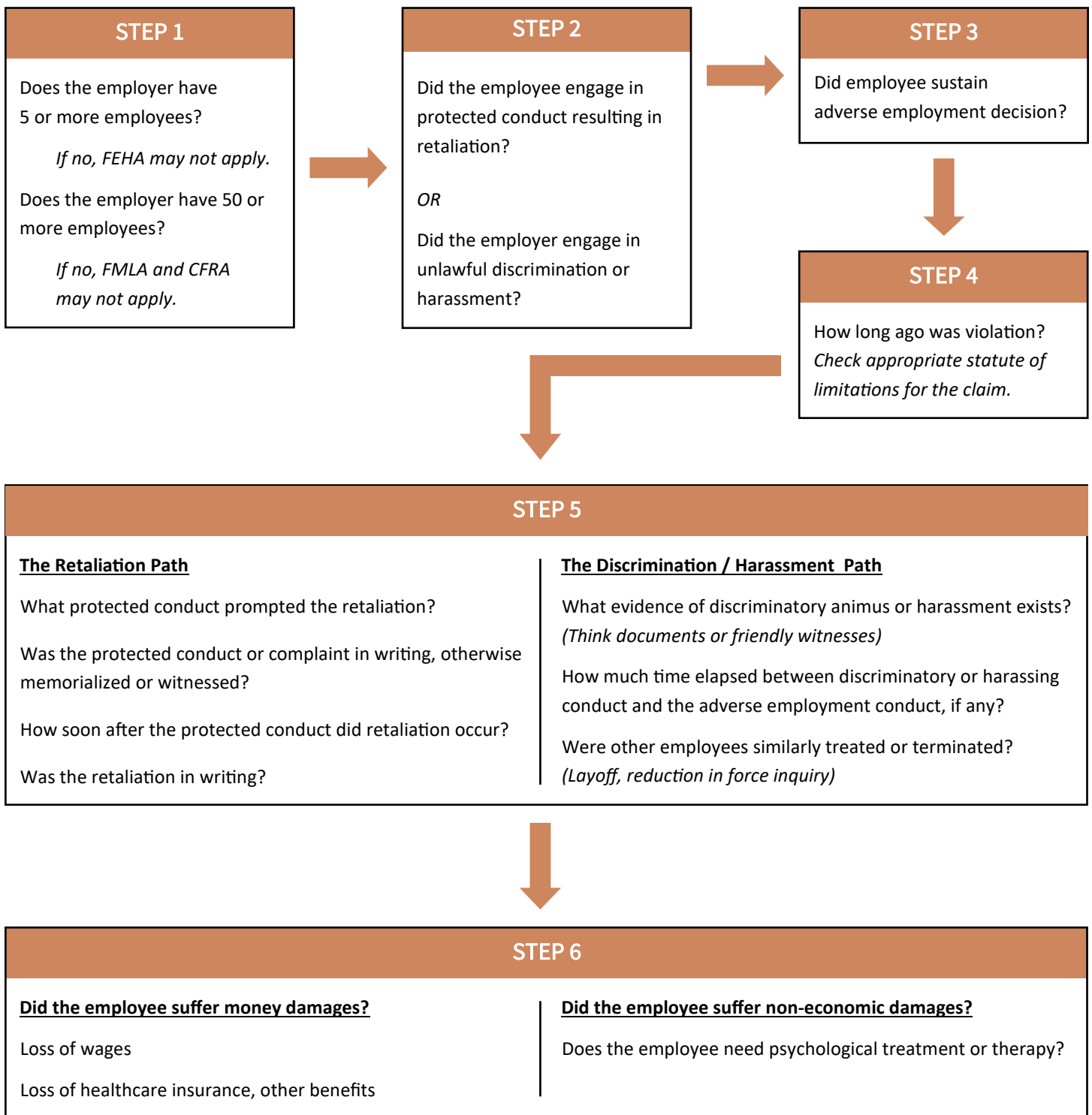
### Privacy violations

- Did employer intrude on PNC's reasonable expectation to privacy, OR did employer retaliate / harass / discriminate after making the privacy violation?

# DOES THE PNC HAVE A VIABLE EMPLOYMENT CLAIM?

## Basic Analysis

*The steps below will assist you in determining the validity of the PNC's employment claim.*



# DOES THE PNC HAVE A VIABLE EMPLOYMENT CLAIM?

## The Introduction

*Here are the questions you should ask a PNC at intake.*

1

### How did PNC hear about your firm?

*When you ask this question, tell the PNC you love to send a thank you to your referral friends and partners.*

2

### PNC Identification information

Full name

Age

Phone number

Email address

Mailing / physical address

3

### Information on employer in question

Is subject of complaint PNC's current or former employer?

Name of company / and any employees pertinent to the complaint

PNC's last / most recent job title with the employer

Number of employees employed by employer (to the best of the PNC's knowledge)

How long had / has PNC been employed by this employer?

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### Nature of complaint

If no longer with the company, how did PNC leave company?  
*e.g., fired, laid off, quit*

Date of separation of other adverse employment action

Type of unlawful conduct PNC was subject to

*Discrimination*

*Retaliation*

*Harassment*

For each type of conduct, ask PNC to provide details of the conduct

*For discrimination complaint, please provide basis for discrimination.*

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### Details of / additional information in support of complaint

Ask PNC to provide as much detail as they can about how their employment ended or the type of adverse action(s) taken against them that they believe are unlawful or wrongful, and which led PNC to seek legal counsel

Are there any documents (text messages, emails, voicemails) evidencing the claims above? If so, what types and who has them?

### Details of / additional information for complaint (cont.)

Ask PNC to upload / deliver any documents in their possession

Are there witnesses, and if so, how many and who are they?

Did PNC file any written complaints with any administrative agencies or the employer?

*If yes, provide dates and to whom PNC complained.*

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### Financial information / damages

Types of Damages Sustained

Last salary / rate of pay

Hours worked per week

Does PNC recall signing an Arbitration Agreement?

Did PNC sign a severance package or settlement agreement with the employer?

Has PNC ever filed for bankruptcy?

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### Is there any additional information the PNC would like your firm to know as to why they are contacting you?

*If intake is done online / via questionnaire, end with thanking PNC and assure them a member of your firm will contact them promptly.*





**ZEIN E. OBAGI, JR.**

**OBAGI LAW GROUP, P.C.**  
THE EMPLOYEE'S LITIGATORS

**SMALL FIRM ATTENTION. LARGE FIRM RESULTS.**

Zein Obagi is the founder and lead counsel at Obagi Law Group, P.C., in Downtown Los Angeles. Serving a diversity of clients throughout the greater L.A. metro area and all across the state, Mr. Obagi offers exceptional and effective advocacy to employees who have been harassed, discriminated against, or retaliated against for whistleblowing or engaging in other wrongful conduct.

Zein has earned a reputation as a tenacious and aggressive trial attorney who zealously pursues the most favorable outcomes on his clients' behalves. His list of successes is varied and many, including a \$2.73 million jury verdict in agricultural litigation, enforcing judgments against a wide range of defiant institutions such as the Mexican government and regularly attaining 6-figure employment litigation settlements for plaintiffs. Of course, all case results are fact dependent and no attorney can guarantee any result.

A 2005 graduate of UC Berkeley, Mr. Obagi attained his J.D. from the University of Southern California Gould School of Law in 2008. While in law school, he was a member of the Hale Moot Court Honors Program, and he received the highest score in his class for "Contracts."

Mr. Obagi is admitted to practice in California, including the U.S. District Court for the Central, Southern, Eastern and North Districts of California, the U.S. Court of Appeals for the 9th Circuit, and the Supreme Court of the United States. In 2019 and 2020, SuperLawyers identified him as a Rising Star.

