

N.C.P.I.—Civil 640.00
INTRODUCTION TO “EMPLOYMENT RELATIONSHIP” SERIES.
GENERAL CIVIL VOLUME
JUNE 2014

640.00 INTRODUCTION TO “EMPLOYMENT RELATIONSHIP” SERIES.

NOTE WELL: The June 2009 replacement instruction N.C.P.I.—Civil 640.00 (“Employment Relationship - Status of Person as Employee”) has been removed from this location and is renumbered as N.C.P.I.—Civil 640.01.

These instructions relate to issues arising out of employment relationships. The series is divided into five topical areas:

1. *Preliminary Issues.* One frequent preliminary issue is whether the plaintiff was actually an employee or something else (such as an independent contractor). N.C.P.I.—Civil 640.01 addresses this issue. Another preliminary issue in termination cases is whether the employee quit voluntarily or was terminated. This issue is addressed in N.C.P.I.—Civil 640.03.

2. *Contract Issues.* Liability for an unlawful termination may arise *ex contractu* or *ex delicto*. N.C.P.I.—Civil 640.10, 640.12 and 640.14 involve issues arising from a contended breach of a contract of employment.

3. *Tort Issues.* N.C.P.I.—Civil 640.20 and 640.22 involve issues arising from a possible tortious termination of the employment relationship.

N.C.P.I.—Civil 640.27 and 640.28 involve alleged discriminatory conduct by an employer, and N.C.P.I.—Civil 640.29 (A), (B), (C), (D) and (E) deal with alleged violations of the North Carolina Whistleblower Act.

4. *Damages.* N.C.P.I.—Civil 640.30 instructs the jury as to damages for breach of employment contract, wrongful termination or adverse employment action. N.C.P.I.—Civil 640.32 deals with an employee's duty to mitigate damages.

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5. *Employer Liability for Co-Worker Torts.* N.C.P.I.—Civil 640.40 and 640.42 do not necessarily involve termination issues. Rather, these instructions are to be used where an employee seeks recovery from an employer because of some tort committed by a co-worker (such as intentional infliction of emotional distress incidental to sexual harassment).

6. *Wage and Hour Act Claim.* N.C.P.I.—Civil 640.60 and 640.65 involve claims and damages brought under the Wage & Hour Act, N.C. Gen. Stat. § 95-25 *et seq.*