Llinks Corporate Compliance & Legal Alert

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LINKS Law Offices
通力律师事务所

Contents

Spotlight on News

1. Supreme People's Court released typical civil cases involving the employer's compensation liability for unjustified job offer revocation.

The Supreme People's Court of China released five typical civil cases on 16 December 2025. Among the five cases, case 2 which reflects a labor dispute over "an employer rescinding a job offer", merits particular attention.

In this case, the employee Mr. Zhang submitted his resignation to his former employer and completed the resignation procedures the day after receiving an "Offer Letter" from a technology company. Subsequently, the technology company informed Mr. Zhang that the offer was cancelled due to financial difficulties. Mr. Zhang then filed a lawsuit seeking 60,000 RMB in damages. The court held that during the process of forming a labor contract, employees are in a relatively disadvantaged position and generally bear higher risks than employers, who consequently have an obligation to negotiate in good faith. The court found that Mr. Zhang had reasonable grounds to believe the technology company would establish an employment relationship with him and resigned from his former job based on that belief. The technology company's withdrawal of the offer without just causes violated the principle of good faith and should bear liability for fault in contract negotiation. Considering factors such as Mr. Zhang's previous income level, a reasonable period for finding new employment, and the degree of fault on the part of the technology company, the court ordered the technology company to pay 20,000 RMB in compensation.

This judgment unequivocally establishes that an employer's recruitment and hiring practices are not only regulated by labor laws and regulations but are also strictly bound by the principle of good faith under the Civil Code. In legal terms, a Letter of Employment constitutes an offer. When an employee, in reliance on this offer, undertakes significant preparations, forfeits existing job opportunities, and thereby acquires reliance interests, the employer's unilateral revocation of the offer without just cause constitutes a violation of the fundamental civil law principle of good faith. The compensation of 20,000 RMB is not a mere substitute for lost wages but the result of the court's comprehensive deliberation. It encompasses the employee's potential income loss during a reasonable job-search period, possible costs incurred in preparing for the new position, and reflects the judiciary's negative assessment of the employer's breach of good faith obligations. This sentencing benchmark sends a clear signal to the market: an employer's act of rescinding an offer without proper justification will be subject to legal restraint.

2. AMAC issued *Guidelines on Performance Appraisal of Fund Management Companies (Draft for Comment)*, improving long-term incentive and restraint mechanisms.

On 6 December 2025, the Asset Management Association of China (AMAC) issued the revised *Guidelines for Performance Appraisal and Compensation Management of Fund Management Companies*, which has been renamed

as the *Guidelines for Performance Appraisal Management of Fund Management Companies (Draft for Comment)* (hereinafter referred to as the **"Guidelines"**) and distributed to fund managers. The Guidelines consist of 7 chapters and 32 articles, with the main revisions as follows: clarifying the compensation management requirements for fund companies; reforming the performance appraisal mechanisms of fund companies; establishing mechanisms to align interests with investors; and specifying requirements for indicator calculation methods, personnel scope, and other related aspects.

The Guidelines primarily guide fund managers in establishing and improving a performance appraisal and compensation management system centered on fund investment returns. For example, regarding fund manager compensation, if a fund's performance over the past three years falls more than ten percentage points below its performance benchmark and the fund's profit margin is negative, the fund manager's performance-based compensation should see a significant year-on-year decline, with the reduction being no less than 30%. Simultaneously, the Guidelines require fund companies to comprehensively establish an appraisal system centered on fund investment returns, incorporating indicators such as actual product gains/losses and comparisons against performance benchmarks. It explicitly states that medium-to-long-term indicators covering a period of three years or more should account for no less than 80% of the overall assessment. Furthermore, the Guidelines clearly stipulate that fund companies should establish a total compensation management mechanism, optimize their internal compensation distribution structure, and extend the scope of personnel subject to deferred payment of no less than 40% of their compensation to include the chairman of the board, senior executives, heads of major business departments, heads of branches, and core business personnel.

As a pivotal institutional arrangement marking the public fund industry's entry into a phase of high-quality transformation, the Guidelines systematically strengthen the linkage between the compensation of fund industry professionals and fund performance. Through a series of quantitative indicators and binding requirements, and by optimizing compensation structures and establishing long-term incentive and restraint mechanisms, the Guidelines steer fund management companies to deeply align employee incentives with the long-term performance of their funds, thereby fostering the stable operation of fund companies and advancing the high-quality development of the public fund industry.

Legislation Updates

1. Supreme People's Court promulgated *Revised Provisions on Causes of Action in Civil Cases* to cover disputes of new employment forms.

On December 17, 2025, the Supreme People's Court officially issued the *Decision on Amending the Provisions on Causes of Action in Civil Cases* (Fa [2025] No. 226) and the *Notice on Issuing the Revised Provisions on Causes of Action in Civil Cases* (Fa [2025] No. 227), marking the third revision of the Provisions on Causes of Action in Civil Cases. The aforementioned documents were reviewed and adopted at the 1960th meeting of the Judicial Committee of the Supreme People's Court on December 4, 2025, and will come into effect on January 1, 2026. The *revised Provisions on Causes of Action in Civil Cases* (hereinafter referred to as the **"Provisions"**) comprise a total of 1,055 causes of action, including 12 first-level causes of action, 59 second-level causes of action, 514 third-level causes of action, and 470 fourth-level causes of action.

The Provisions adhere to three core principles—compliance, necessity, and practicality—and, in light of evolving socio-economic realities, the Provisions introduce a series of new cause-of-action categories. For instance, under "Labor Disputes", new categories such as "disputes involving employment in new employment forms" and "disputes involving employees beyond retirement age" have been added. In the "Corporate Disputes" section, specific types like "disputes over removal of company registration (or filings)" are introduced, and "shareholder capital contribution disputes" are further subdivided into: "(1) failure to fully fulfill capital contribution obligations," "(2) withdrawal of contributed capital," and "(3) accelerated maturity of shareholder capital contributions." These updates precisely address the growing complexity of employment relationships together with corporate governance and shareholder liability disputes, providing clear guidelines for case filing and judgement.

This revision is an important initiative by the Supreme People's Court to provide high-quality judicial services that support the high-quality development of the economy and society. It holds significant practical importance for facilitating civil litigation for parties, standardizing civil case filing, adjudication, and judicial statistics in the people's courts, and enhancing the quality and efficiency of civil adjudication work.

2. SASAC issued *Measures for the Investigation of Responsibility for Illegal Operation and Investment in Central State-Owned Enterprises*, specifying 98 punishable scenarios.

On December 18, 2025, the State-owned Assets Supervision and Administration Commission of the State Council (SASAC) issued the *Measures for the Investigation of Responsibility for Illegal Operation and Investment in Central Enterprises* (hereinafter referred to as the **"Measures"**). The Measures specify the responsibilities that relevant management personnel in central enterprises shall bear for losses of state-owned assets or other adverse

consequences caused by violations, failure to perform duties, or incorrect performance of duties. These provisions cover 13 areas, including financial business, scientific and technological innovation, fixed asset investment, and equity investment, encompassing 98 specific scenarios.

The Measures clearly define the classification criteria for the amount of asset losses resulting from illegal business operations and investments: losses below 5 million yuan are classified as minor asset losses; losses of 5 million yuan or more but below 50 million yuan are classified as significant asset losses; and losses of 50 million yuan or more are classified as major asset losses. The classification of other adverse consequences is divided into three categories: minor adverse consequences, significant adverse consequences, and major adverse consequences. These correspond respectively to violations that are relatively minor, relatively serious, or severe in nature, and their impacts are primarily at three levels: the enterprise involved, the industry or central enterprises as a whole, and society or the nation.

Additionally, Article 36 of the Measures introduces a disclaimer clause for the first time. This Article applies under the premise that the relevant personnel have adhered to the prescribed procedures, acted diligently and responsibly, did not pursue personal gain, and did not cause significant losses or severe adverse consequences. While reinforcing regulatory accountability, this clause addresses the previous gap in similar management regulations concerning fault tolerance in the performance of duties. In practical terms, this Article also provides guidance on the related processes of evidence provision and determination: when individuals claim the applicability of the disclaimer clause, they must submit materials that demonstrate their completion of the required procedures and fulfillment of their duty of diligence, such as work approval records, documentation of the duty performance process, and communication records related to the work. Meanwhile, the authorities responsible for determination must assess whether all conditions for exemption are met by considering the specific context of the incident as well as the actual extent of the losses or impact.

Case Study

1. Supreme People's Court Releases Representative Cases: Dismissal for sexual harassment under company rules shall not be regarded unlawful.

- **Facts**

Wu was employed by a food company in Guangdong as a restaurant waiter, and both parties had signed a labor contract. The company's Employee Handbook stipulated specific content prohibiting sexual harassment and explicitly defined sexual harassment as a serious violation of company rules and regulations, which could lead to termination of employment. Wu had signed a declaration letter confirming that he had read and understood all the contents of the Employee Handbook. Interview records with five employees indicated that Wu had engaged in inappropriate behavior toward female employees. In the interview record, Wu himself admitted that during a break, he rested his head on female employee Chen, for which he was scolded by Chen. The Guangdong food company terminated its labor relationship with Wu on the grounds that Wu had repeatedly engaged in sexual harassment toward female employees during his employment, violating the relevant provisions of the company's Employee Handbook. Wu applied for arbitration, claiming that the company had unlawfully terminated the labor relationship and requested compensation for damages and unemployment position subsidies. The arbitration ruling rejected all of Wu's claims. Dissatisfied, Wu filed a lawsuit with the court, requesting the Guangdong food company to compensate him with three months' salary, one month's economic compensation, a position subsidy of 3,200 yuan for middle-aged and elderly employees, and interest of 650 yuan.

- **Judge's Viewpoint**

The court held that the Civil Code explicitly prohibits sexual harassment, which not only infringes upon the personal rights of workers but also undermines a safe and civilized working environment, seriously deviating from the core socialist values. Where a worker engages in sexual harassment in the workplace, the employer may lawfully terminate the labor relationship. In this case, the evidence provided by the Guangdong food company, including interviews with female employees, video footage, and Wu's own interview record, corroborated each other and could confirm that Wu had engaged in multiple instances of sexual harassment, constituting a serious violation of the company's rules and regulations. Accordingly, the company's termination of the labor relationship with Wu constituted lawful dismissal, and no compensation for unlawful termination of the labor contract needed to be paid to Wu. The court ultimately ruled to dismiss all of Wu's claims.

2. Shenzhen Intermediate People's Court: Rehired employees with unchanged job position and responsibilities are not obliged for a second probation.

- **Facts**

In July 2023, Chen joined Company A as a "Crawler Engineer", signing a one-year labor contract with a two-month probation period. His probation salary was set at 12,000 yuan per month, increasing to 15,000 yuan per month upon becoming a regular employee. Later, due to disagreements over project timelines and other issues, the parties failed to reach a consensus, and Chen resigned. Subsequently, Chen did not find other employment, while Company A faced a staff shortage, leading to Chen being rehired. In December 2023, Chen rejoined Company A as a "PHP Engineer", signing another one-year labor contract with a two-month probation period. The salary terms remained the same as before, and his job responsibilities were substantially identical to those of his previous role.

In May 2024, Chen requested the termination of the labor contract and filed an arbitration application with the labor arbitration commission. He claimed that the company had unlawfully stipulated probation periods and requested Company A to pay 30,000 yuan in compensation. The labor arbitration commission ruled in favor of Chen's request. Dissatisfied with the arbitration result, Company A filed a lawsuit with the court, arguing that Chen had joined the company as a "Crawler Engineer" and later as a "PHP Engineer", and that stipulating two probation periods was not unlawful. The company requested a court ruling exempting it from paying compensation.

- **Judge's Viewpoint**

The trial court held that, in accordance with Article 19, Paragraph 2 of the *Labor Contract Law of the People's Republic of China*, which stipulates: "An employer may only agree on one probation period with the same employee". This provision establishes the principle of the uniqueness of the probation period, meaning that within the same employment relationship, a probation period should not be set repeatedly. The purpose of this clause is to prevent employers from abusing probation periods to infringe upon the rights and interests of workers, ensuring the stability and fairness of employment relationships. Generally, if an employee rejoins the same employer and there is no substantial change in their position or job duties, the employer should not re-establish a probation period. In exceptional circumstances, where there are significant changes in the position and job responsibilities, such as substantial differences in duties, skill requirements, etc., the employer may negotiate and agree upon a new probation period with the employee after reasonably assessing the employee's ability to adapt to the new role.

In this case, Chen had already completed one probation period, and Company A had already assessed and gained a basic understanding of his capabilities. Upon Chen's reemployment, Company A established a second probation period. However, the labor contract between the parties specified that Chen's position and responsibilities were those of a development engineer and programmer. Evidence such as corporate WeChat communication records and witness testimonies also indicated that there was no substantial change in Chen's position or job duties between his two periods of employment. Furthermore, the time interval between Chen's two employments was relatively short. It was therefore unreasonable for Company A to re-establish a probation period to assess whether Chen met the job requirements. This constituted an infringement of Chen's legitimate rights and interests and violated the relevant provisions of the Labor Contract Law. Consequently, Company A should pay compensation to Chen based on his monthly salary after the probation period, calculated for the period exceeding the legally prescribed probation period that had already been fulfilled. Specifically, compensation of 30,000 yuan for the illegal stipulation of the probation period should be paid.

3. Beijing Municipal Human Resources and Social Security Bureau Releases Typical Labor Arbitration Cases: Interns who have obtained graduation certificates are entitled to full labor rights.

- **Facts**

Feng, a full-time university student, began an internship at a technology company on January 17, 2022. Both parties signed an internship agreement, stipulating a monthly internship salary of 4,000 yuan and a position as an inspection specialist (assistant). On January 20, 2023, Feng obtained his graduation certificate. However, despite being aware of this, the company renewed his internship agreement with him until December 31, 2023.

Starting in February 2023, Feng repeatedly requested verbally that the company sign a labor contract with him, citing that he had graduated and was independently handling inspection projects. The company refused these requests each time. Feng continued working in his original position, under the company's management, and received his internship salary. On November 25, 2023, the company unilaterally terminated the internship relationship on the grounds that "no interns were needed". Feng subsequently filed for arbitration, demanding that the company confirm the existence of a labor relationship between the two parties from January 20, 2023, to November 30, 2023, and pay compensation for the unlawful termination of the labor contract.

- **Judge's Viewpoint**

The arbitration committee held that, with regard to the suitability of the subject, Article 12 of the Ministry of Labor's Opinions on Several Issues *Concerning the Implementation of the Labor Law of the People's Republic of China stipulates* that "work-study activities of students during their studies shall not be regarded as

employment". The prerequisite for its application is that the student status continues and the activity is conducted for the purpose of study. Feng had already obtained his graduation certificate and was fully qualified to establish a labor relationship with the employer as a subject.

On this basis, the relationship between the two parties satisfies the three essential elements of a labor relationship:

1. Personal Subordination — After graduation, Feng continued to work in the original position as an inspector, was required to comply with the company's rules and regulations, and accepted the company's management and direction. His status had shifted from a learner to a company employee, forming a stable and continuous relationship of management and subordination between the two parties.
2. Economic Subordination — Feng received regular remuneration from the company in exchange for providing labor. The nature of this remuneration had changed from a living allowance during the internship period to regular wages based on labor input. A clear economic dependency and payment relationship had been established between the two parties.
3. Organizational Subordination — The labor provided by Feng was an integral part of the company's overall business operations, rather than "non-independent" or "auxiliary" internship activities.

In summary, after Feng graduated and continued to provide labor, he had already assumed the status of a worker. The title of the agreement could not conceal the essence of the labor relationship. The company's termination of the labor relationship on the grounds that "no interns were needed" constituted an unlawful termination of the labor contract, and the company should pay compensation.

4. Shanghai No. 1 Intermediate People's Court Releases Typical Labor Dispute Cases: "Access to trade secrets" is the key criterion for determining non-compete obligations.

- **Facts**

Shi was employed as a host by a beauty livestreaming room under Company Y and signed a Non-Competition Agreement, which stipulated that within six months after leaving the company, Shi would not engage in the same type of beauty livestreaming business in Asia and the Pacific region, and Company Y would pay monthly non-compete compensation. After Shi left the company in March 2022, Company Y paid six months of non-compete compensation as agreed. However, Shi immediately joined a livestreaming room that sells beauty products. Company Y filed a lawsuit, requesting that Shi return the compensation of 36,630 yuan and pay a penalty of 73,260 yuan. Shi argued that they were not a subject obligated to maintain confidentiality, and the information they encountered in their daily work was merely work-related and not a trade secret.

- **Judge's Viewpoint**

The court of first instance held that Shi had access to information such as product sales data, customer preferences, and promotional arrangements in the livestreaming room, which met the characteristics of trade secrets, and thus Shi qualified as an appropriate subject for non-competition obligations. Shi was required to return the compensation for violating the agreement, but the penalty stipulated in the agreement was deemed excessive. Considering the duration of the breach and the amount of compensation, the court adjusted the penalty to 36,630 yuan at its discretion. Accordingly, the court ruled that Shi must return the compensation of 36,630 yuan and pay a penalty of 36,630 yuan.

Shanghai No. 1 Intermediate People's Court opined that the determination of whether an individual qualifies as a subject for non-competition obligations should focus on the factual access to trade secrets. Internet hosts who have access to their employer's technical or operational information are considered workers obligated to maintain confidentiality. The penalty stipulated in a non-competition agreement should also be reasonable to balance the employer's competitive interests with the internet host's right to employment. In this case, during Shi's employment in the livestreaming room, Shi could access sales data, customer preferences, and promotional activity arrangements of the livestreaming room. Such information, for which Company Y had implemented confidentiality measures and which could provide a competitive advantage to the company, constituted trade secrets. Therefore, Shi met the requirements for being subject to non-competition obligations. As for the penalty, which was set at twice the total compensation amount in the agreement, it failed to adequately consider the specifics of Shi's breach and income level. The court of first instance adjusted the penalty to an amount equal to the compensation based on the principle of fairness, thereby safeguarding Company Y's interests in protecting its trade secrets while avoiding undue burden on Shi. The adjustment was deemed appropriate.

Introduction of Llinks Corporate Compliance Practice

Llinks provides clients with efficient solutions and pragmatic corporate compliance advice based on clients' business needs. Our services include: providing daily corporate compliance advice and training; designing strategies and plans for mass layoffs and participating in on-site negotiations; assisting in solving personnel replacement in mergers and acquisitions, and providing on-site support and crisis management for strikes and other collective action; representing clients in labor arbitrations and litigations involving terminations of employment contracts, bonus payments, etc.; advising on issues of white-collar crime, anti-corruption and anti-bribery, anti-discrimination, personal information protection, protection of trade secrets and non-competition obligation, equity incentives, and senior-level employee dismissals, etc.

Awards and Honors:

- In 2024 and 2025, Patrick Gu was recommended as a Ranked Lawyer in the Greater China Region Guide by Chambers and Partners.
- In 2023, 2025 and 2026, Patrick Gu was recommended for Regulatory and Compliance, Labor and Employment by The Legal 500 Greater China Ranking.
- In 2024, Patrick Gu was recommended for Labor and Employment by The Legal 500 Greater China Ranking.
- In 2023, Patrick Gu was recommended as a Leading Lawyer by The Legal 500.
- In 2023, Llinks Law Offices received the Labor & Employment PRC Firms of the Year award from The Legal 500.
- In 2021, 2020 and 2019, Patrick Gu was consecutively recommended as a Leading Labor Lawyer by China Law & Practice.
- In 2023, 2022, 2021, 2020 and 2019, Patrick Gu was consecutively recommended as a Top-Tier Labor Lawyer by LEGALBAND.
- In 2020, Llinks Law Offices received the Best Law Firm for Client Service (China Awards) from Chambers and Partners.

Contact us

Patrick Gu
Tel: +86 21 3135 8722
patrick.gu@llinkslaw.com

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