



BY: **RUSSELL D. MAYER, ADV.**

SUBJECT: **EMPLOYEES' RIGHT TO AN INTERNAL HEARING**

DATE: **FEBRUARY 2015**

We bring to your attention an important development in the field of labor law and practice in Israel. By way of background, there has been a historic obligation upon public entities to give their employees Zechut Shimu'ah (i.e. right to an internal hearing) before they are dismissed. Over the past few years, the labor courts have been expanding the obligation which falls upon employers – by imposing it first to “quasi-public” entities and, recently, to the private sector.

While it has always been the rule that termination of an employee must be done in good faith, for legitimate business reasons, not in violation of any protective provisions of any law and without being based upon prohibited discrimination, it is now generally accepted that all employers in Israel are required to give their employees Zechut Shimu'ah before they are dismissed.

The generally accepted procedure is, in broad terms, as follows:

- (a) the employee should be presented with the reason for termination or non-renewal of a fixed term employment arrangement;
- (b) the employee should be given a reasonable opportunity to respond to the basis for their termination or non-renewal at an internal hearing which is to be scheduled for a reasonable number of days after having been notified of the reasons for the intended termination;
- (c) the employee may bring an advisor to the internal hearing;
- (d) the internal hearing should be conducted in good faith and with an open mind to considering the employee's arguments; and
- (e) the employer should keep a record/protocol of that which transpires in the internal hearing.

Failure to provide the requisite opportunity may not only give rise to challenge of the termination itself but for damages to be awarded to the employee such as for pain and suffering in addition to those for unjust termination.

While some unique, mitigating circumstances may dictate termination without strictly following all of the rules for an internal hearing, employers would be well-advised to minimize those occasions, only do so when absolutely necessary and, in any event, act in good faith.

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*This memorandum is not to be considered as a legal opinion.
For legal advice, we suggest you contact legal counsel directly.*

R.D.M.

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