



## Carmelle Hunka

### Senior Counsel

After 25 years advising large companies as in-house legal counsel, Carmelle Hunka has joined Walsh to bring her business and employment law experience and practical approach to our clients.

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### Did you know ....

Employees may be entitled to have bonus compensation included in their termination payments.

Regardless of whether a bonus program is characterized as discretionary, if annual bonus payments are the norm, regardless of performance, the bonus may be considered an integral part of the employee's compensation and therefore should be included in a termination payment.

Employers have sought to address this concern by adding wording in bonus plans and employment agreements requiring the employee to be actively employed on the date the bonus payment is made to be eligible. The courts have addressed this issue. If the notice period extends to or beyond the payment date, the bonus should be included in a termination payment.

*Employers can add clear and unambiguous language to their bonus plans to limit or remove the employee's common law right of payment of bonus in a termination payment.*

Express language indicating the employee waives their right to any claim to a bonus, or a portion of it, if their employment is terminated before the payment date of the bonus, even the day immediately before the payment date, may be sufficient to remove this employee right.

Our employment lawyers can review your bonus plan and employment agreements. As experienced legal counsel, we can help you draft clear and unambiguous terms in these documents to protect your company

Carmelle has extensive experience in all areas of employment law including policies and plan documents, employment agreements, executive compensation including public disclosure, incentive plans, terminations, human rights matters, ethics and business conduct matters including investigations and anti-corruption and anti-bribery matters, and advising companies regarding employment law matters in merger and acquisition activity.