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***Can you say something nice about an ex...Does recommending former employees for social media and job sites open the door to possible litigation?***

DATELINE: BOSTON, MASS.

It's a natural occurrence in today's economy. Companies downsize and employees are let go. As a parting gesture, the supervisor or manager offers to write a recommendation on LinkedIn, Monster or another social media site. While this may seem harmless, does it make the company vulnerable to a possible wrongful termination suit? Or perhaps another kind of lawsuit (e.g. age, gender, reverse discrimination).

It's quite possible.

"When companies downsize, it's natural to want to help former employees out to find a new position," said Kerry Ryan, a member at Boston-based Tarlow Breed Hart & Rodgers, P.C. "What happens in many situations is the former employee's job search goes on for a while and they start to wonder why they were let go and so-and-so was not. Having a glowing recommendation from their supervisor only feeds the fire that they were wrongly terminated and that's where lawsuits arise."

So what should a company do?

"There are some basic steps that can help protect a company," says Ryan. "You need to balance the desire to help out a former employee with the realities of potential litigation."

For starters, companies could:

- Require any online recommendations to be reviewed and signed off on by a point person (e.g. director of human resources, company executive). All requests by telephone for a recommendation should be referred to the same point person.
- Adopt a company-wide policy barring employees from giving written recommendations for either current or former employees on a non-company Web site. This will give the supervisor a legitimate reason to tell the departing employee that the supervisor can't give the requested recommendation. The policy may help the supervisor out of a difficult situation.
- Provide additional career counseling and other outplacement services in lieu of online recommendations.
- A supervisor could call other people in the industry suggesting that they interview the departing employee. These introductions may be more valuable than a written reference on a networking site.

“It used to be ‘if you can’t say anything nice, don’t say anything at all’. When it comes to recommending one of your former employees on LinkedIn or other social media sites, saying something nice could open the door to litigation,” said Ryan.

***About Tarlow, Breed, Hart & Rodgers, P.C.:***

Formed in 1991, Tarlow, Breed, Hart & Rodgers, P.C. is committed to providing high quality, comprehensive legal services to its clients. Featuring a breadth and depth of experience and perspective usually found only at larger law firms, Tarlow, Breed, Hart & Rodgers, P.C. offers sophisticated legal counsel to entrepreneurs, businesses, individuals, families, and institutions.

Tarlow, Breed, Hart & Rodgers’ areas of expertise include corporate law and business transactions, litigation and dispute resolution, estate planning, taxation, real estate, municipal law, and hospitality law.

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