

Termination Information Every Small Business Owner Should Know



Dan Graziano

The small business owner probably faces no more daunting challenge than terminating an employee. Whether it's a layoff due to a drop in business or a poorly performing employee, the threat of a wrongful termination suit looms large. The first line of defense for any employer taking any personnel action is documentation. If an employee has been derelict and under-performing, that should be the subject of a

memo to the personnel file, preferably, a memo requiring a counseling session where the performance is evaluated in a negative but constructive way with suggested improvements and an explanation of possible consequences including termination. In a layoff, the diminution of work activity and demand should be documented in sales/revenue records and, again, a memo alerting staff to the threat posed by a business decline, would be most helpful in a later defense of the layoff.

In either case, an employer should consider the value of a severance agreement providing the terminated employee with wage or benefit continuation in exchange for a release of any potential claims. Such an agreement can help avoid costly litigation if properly drafted by an experienced employment lawyer. Finally, employment practices insurance has become affordable and should be considered by everyone who has a payroll. Costs can be reduced by high deductibles, but that then becomes a threshold for consideration of the expense risk of potential litigation and may affect your ability to negotiate a reasonable severance package.

In any case, employers with any size staff can benefit from having an attorney available for consultation and advice. Our firm provides such services for many employers on a retainer basis, where the client pays a monthly or quarterly fixed fee which covers such advice and the drafting such agreements. Daniel S. Sweetser, Ryan A. Marrone or I would be happy to discuss such an arrangement with you for your company.

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NJ Trade Secrets Act

suffered by the business and for any unjust enrichment of the defendant caused by the misappropriation. Damages may also include the imposition of a reasonable royalty. In instances involving willful and malicious misappropriation of a trade secret, the court may award punitive damages. Attorney's fees and costs may also be awarded.

Almost all businesses, regardless of size, rely upon trade secret protection to maintain a competitive edge. However what belongs to a business does not always stay with the business, as employees come and employees go. The newly enacted NJTSA provides teeth and muscle to businesses seeking to protect and enforce their proprietary, commercially advantageous business secrets.

Szaferman Lakind Attorneys in Leadership Positions with Mercer County Bar Association

Szaferman Lakind is proud to announce that several attorneys have been selected for leadership roles within the Mercer County Bar Association (MCBA).

Robert Lytle remains very involved with the MCBA, chosen to serve as a Trustee for the 2012 calendar year, the chair of the Civil Bench Bar Committee and co-chair of the Volunteer Lawyer's Project. Michael Brottman is chair of the Workers Compensation Bench Bar. Melissa Ruff is a co-chair of the Young Lawyers Committee.



Robert Lytle