

## **What may an employer say about why an employee left or was fired?**

An employer generally may disclose, both to an employee's co-workers and to potential employers, the true reason why an employee left or was fired. In addition, an employer who inadvertently discloses the wrong reason stating that the employee was fired for theft, for example, when the employee in fact did not steal anything-may be protected from suit by a qualified privilege. The qualified privilege is designed to help an employer protect other businesses and members of the public from persons whom it believes to be dishonest. This privilege is only available, however, where the employer has conducted a reasonable investigation into the statements which it makes, and where it discloses the information only to those who have a reasonable need to know. An employer, who receives a report of theft or sexual harassment by an employee, conducts a thorough investigation, fires the employee, and then tells other potential employers the reason for the firing is probably protected, even if the report was wrong. An employer who hears a rumor that an employee has stolen and promptly fires the employee without investigating, and then tells the newspaper that he or she was fired for stealing, could be sued for defamation.

Many employers, out of fear of suit, now decline to release any information, good or bad, about present or former employees, or require an employee seeking such information (such as a favorable reference) to sign a release of any potential claims arising out of the information.

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