OLD REPUBLIC CONTRACTORS INSURANCE GROUP

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Wonder What a COVID-19 Court Case Looks Like?

While many employment laws haven't changed due to the pandemic, their application may have taken on a different tone.

Case in point

Gabriel, an employee, was hired as a manager on March 2, only eight days before a state of emergency was declared based on the outbreak of COVID-19 in 2020. Gabriel's doctor advised him to telework to avoid exposure to the virus due to his asthma. This request was initially granted.

The company wanted all managers to return to the office on May 18. Gabriel again submitted a doctor's note requesting telework for the next four weeks. This request was also granted. On June 19, however, Gabriel's request to continue the status quo was denied. The argument was that no managers were being allowed to work from home. His request was again denied on June 23. He used his allotted leave time from June 29 to July 3.

He reluctantly reported to work on July 6, but most of the protective items he requested (masks, sanitizer, wipes) were not provided. He was given KN95 masks, but Gabriel indicated they were not effective for all work tasks. He also feared exposure to people who were not wearing masks in the workplace.

Gabriel's boss supported his need to telework, indicating that he could perform the job from home. Still, her attempts were summarily dismissed by her own supervisor, who indicated that all managers were to work from the office.

On August 27, managers with children could telework for up to two days per week. Another manager at the company was permitted to work remotely, putting the policy in question.

Gabriel and his boss unsuccessfully tried once again. Finally, Gabriel said he would resume teleworking on September 8 to protect his health. The company indicated it would enforce its policies if he did. Gabriel assumed that meant that he would be terminated. On September 3, therefore, he filed a complaint claiming disability discrimination, failure to provide a reasonable accommodation, and creating a hostile work environment, all in violation of the Americans with Disabilities Act (ADA).

The claim indicated that Gabriel is likely to succeed on the failure to accommodate argument. The employer did not engage in an interactive process at any of the multiple times Gabriel asked for accommodation. Asthma can be a disability, particularly in light of the virus. He successfully pled a failure to accommodate claim as his condition subjected him to a heightened risk of death or serious illness if he contracted COVID-19.

Telework is certainly a viable accommodation in certain circumstances, and Gabriel successfully performed the job from home for some time — showing that it was an adequate accommodation.

The employer indicated that it accommodated Gabriel by providing facemasks, sanitizer, wipes, an air purifier, and separate workspace with less foot traffic. These, however, are generally workplace safety rules and do not support an argument that it performed an individualized assessment of Gabriel's situation.

While employers need not provide an accommodation that would pose an undue hardship, it is unlikely that this employer will be able to show that allowing Gabriel to work from home would be an undue hardship.

Friends, when an employee requests a workplace change, discuss it with the employee; do not just point to workplace policy. Particularly when that workplace policy is not consistently applied. Remember that the virus may bring more employees under the ADA umbrella, so be careful out there.

Peeples v. Clinical Support Options, Inc., District of Massachusetts, No. 3:20-cv-30144, filed 9/16/20.

CDC Warns Counterfeit Respirators on Market May Not Provide Appropriate Protection

The Centers for Disease Control and Prevention (CDC) has warned of counterfeit respirators on the market being sold, as NIOSH approved, which may not provide appropriate respiratory protection.

The CDC says that NIOSH-approved respirators have an approval label on or within the packaging, either on the box itself and/or within the users' instructions, as well as an abbreviated approval on the respirator. NIOSH-approved respirators will always have one of the following designations: N95, N99, N100, R95, R99, R100, P95, P99, or P100.

Signs a respirator may be counterfeit include:

- No markings on the respirator
- No approval (TC) number on respirator or headband
- No NIOSH markings
- NIOSH is spelled incorrectly
- Presence of decorative fabric or other decorative add-ons
- Claims of approval for children (NIOSH does not approve any type of respiratory protection for children)
- The respirator has ear loops instead of headbands

Using COVID-19 as a Termination Reason? Be Sure it's Factual

Many employers go beyond what is required by law, but they need to do so with care and consideration. One company had a policy whereby it allowed employees to take more leave than is required under the FMLA. The problem was that it did not communicate that taking the extra leave provided no job protection.

An employee, we will call her Shannon (not her real name), took that extra leave, and when she returned to work, she found — eventually — that she no longer had a role at the company. When she lodged a discrimination complaint, she was terminated. The company claimed — in part — that the termination was related to COVID-19. The employee claimed that her leave was the reason for the termination.

The complaint indicated that Shannon tried and tried to find out about returning to work but was stymied at every turn. This went on for months, but she was repeatedly told she was not slated for termination. She was also told not to worry and that her job was secure. Yet she was shuffled from person to person and never got a straight answer to her inquiries regarding her job, either the one she had before leave or any at the company. She was assigned a couple of projects, but not commensurate with her skills.

She finally indicated to a company representative that she was worried that being on maternity leave would hurt her. She got no response. At one point, her old manager indicated that she would never rejoin his department and that she was transitioning to another department. The other department, however, indicated that she had not been transitioned and never would be.

After complaining, a zoom meeting eventually took place where Shannon was terminated and told it was related to COVID-19 and was not performance-related. Shannon expressed her belief that the termination was likely in relation to her complaints that went back to her leave. She subsequently sued. Now the company is facing a potential class action because the policy affected all women who took leave under the policy.

The case has recently been filed, so the outcome will not be known for some time. The employer, however, will now need to spend resources defending its actions. The claim can provide some interesting lessons.

- Communicate repercussions in relation to leave policies that go beyond the law. This company touted and promoted its leave, but never told anyone that taking the leave risked termination.
- Do not tell employees their job is secure when it is not. Leading employees on can frustrate employees, which can inspire them to become plaintiffs.
- Have strong, documented, non-discriminatory reasons for termination. This termination was not performance related, but the employer seemed to have a hard time providing logical reasoning.
- Do not try to blame a virus when the real reason is not a virus. Providing shifting and different reasons for a termination supports a pretext claim. The reason may have been related to the virus, but the employer's reasons were suspect, including that her position was eliminated when it was not.

Friends, be careful out there. While having robust benefits can have many positive results, be sure they do not result in lawsuits. In case you want to watch this case, it's *Knight v. Deloitte Touche Tohmatsu Ltd., et al.*, in the Southern District of New York, No. 1:20-cv-07114, filed 9/1/20.

California Requires Employers to Notify Employees of COVID-19 Cases

California Governor Gavin Newsom has signed legislation requiring employers to report known cases of COVID-19 within one business day to employees who may have been exposed. In the event of an outbreak, employers also must notify the local health department of any subsequent laboratory-confirmed cases of COVID-19 at the worksite.

A written notice must be provided to all employees and the employers of subcontracted employees on the premises at the same worksite as the infected employee within the infectious period. The notice must be provided in a manner the employer normally uses to communicate employment-related information.

Written notice may include, but is not limited to, personal service, email, or text message if it can reasonably be anticipated to be received by the employee within one business day of sending and must be in both English and the language understood by the majority of the employees.

Additionally, on September 17, California's Occupational Safety and Health Standards Board approved a request to enact an Emergency COVID-19 Standard, making the state the third to do so, following Virginia, whose law is already in effect, and Oregon, who plans to have one by the end of September.

OSHA Issues Guidance on the Use of Cloth Face Coverings When Working in Hot, Humid Conditions

To protect employees against the spread of COVID-19 and the risk of heat-related illness, OSHA has issued guidance on the use of cloth face coverings when working in hot, humid conditions.

While the Agency generally recommends employers encourage employees to wear cloth face coverings at work to help reduce the spread of COVID-19, employees who wear them in hot, humid environments or while performing strenuous activities can find them uncomfortable.

Practices employers can take to help protect employees include:

- Acclimatizing new and returning employees to environmental and work conditions while wearing cloth face coverings;
- Allowing employees to remove cloth face coverings when they can safely maintain at least 6 feet of physical distance from others;
- Considering alternatives such as face shields when appropriate;
- Increasing the frequency of hydration and rest breaks in cooled environments;
- Encouraging employees to change cloth face coverings when wet, as wet face coverings make it more difficult to breathe and are not as effective;

- Providing clean replacement cloth face coverings or disposable face masks, as needed, for employees to change into throughout the work shift; and
- Planning for heat emergencies and training employees on heat stress prevention and treatment.

OSHA notes that cloth face coverings should not be considered a substitute for engineering and administrative controls, safe work practices, or necessary personal protective equipment (PPE).

New Adverse Driving Conditions Exception Provides more Flexibility

Revisions to the adverse driving conditions exception will give truck and bus drivers extra time to complete their runs after encountering unexpected delays caused by weather or traffic conditions.

This revision is just one of four major changes to the hours-of-service (HOS) rules going into effect on September 29, 2020. Other areas include:

- The sleeper-berth provisions,
- The 30-minute break rule, and
- The 100-air-mile exception.

In this final installment of our four-part series on the new HOS rules, the adverse driving conditions provision will be summarized. Three previous articles addressed the sleeper berth provisions, 30-minute break, and 100 air-mile exceptions, respectively.

What changes?

Revisions to §395.1(b)(1) allow drivers to extend both their driving and on-duty limits by 2 hours. The old rule only permitted drivers to extend their driving limit, but not their on-duty limit, by 2 hours.

Truck drivers subject to the 14-hour limit will be most affected by the changes.

Benefits of the new rule

With the expanded hours, more drivers will be eligible to use the exception to wait out unexpected weather or traffic conditions, rather than trying to “race the clock” to complete the run.

Drivers will have an added cushion of on-duty time when using the exception. All driving (up to 13 hours for truck drivers or 12 hours for bus drivers) will need to be done within 16 consecutive hours for truck drivers or 17 on-duty hours for bus drivers.

Cautions when using the exception

The allowable uses of this exception remain relatively narrow. See the definition of “adverse driving conditions” in §395.2.

Motor carriers are obligated to make sure the adverse conditions were unknowable at the time of dispatch. Motor carriers and drivers should check traffic and weather conditions before starting a run.

Motor carriers should make sure drivers are aware that they cannot use this exception for routine weather or traffic delays. The delay must be unexpected, and it cannot be due to normal rush-hour traffic, vehicle breakdowns, loading or unloading delays, or an inability to find parking.

Though not required, drivers should be advised to enter a note on their log to indicate when they are using the exception and why. Consider requiring this under company policy.

FMCSA Extends Medical and Licensing Waivers with Some Modifications

Newly updated waivers and enforcement policies from the Federal Motor Carrier Safety Administration (FMCSA) mean some drivers will continue to be exempt from certain licensing and medical qualification requirements through the end of the year.

The new waivers are effective October 1, 2020, and expire December 31, 2020. The Agency published similar waivers earlier this year in response to the COVID-19 pandemic. The most recent are due to expire on September 30, 2020.

The waivers and enforcement policies apply to intrastate and interstate commercial driver's license (CDL) and commercial learner's permit (CLP) holders and interstate non-CDL drivers.

Many commercial drivers continue to struggle with renewing their licenses or providing proof of medical certification to their State Driver Licensing Agency (SDLA) due to limited operations. In addition, drivers may still experience difficulties in scheduling appointments with certified medical examiners due to limited operations or backlogs.

OSHA Issues Final Rule on Cranes and Derricks Used in Railroad Roadway Work

OSHA has issued a final rule that provides exemptions and clarifications regarding cranes and derricks used for railroad roadway work. The Agency says the rule also reflects that some OSHA requirements, with regard to the operation of railroad roadway maintenance machines equipped with cranes, are preempted by Federal Railroad Administration (FRA) regulations.

What is exempted?

- Flash-butt welding trucks, a specialized piece of equipment used in railroad work that meets the technical definition of a crane, but does not present the types of safety hazards that OSHA intended to address in the crane standard; and
- Using rail stops and rail clamps, restricting out-of-level work; prohibiting dragging a load sideways; having a boom-hoist limiting device for hydraulic cylinder equipped booms, and following manufacturer's guidance for the use and modification of equipment.

Operator training and certification will follow the FRA's regulatory requirements.

The rule takes effect on November 16, 2020.

Oregon Employers Urged to Stop or Delay Outdoor Work to Protect Employees

As harmful air quality persists due to wildfires, Oregon employers are urged to stop or delay outdoor work activity where possible and take other reasonable steps to protect employees when air quality reaches the "unhealthy" zone.

Oregon OSHA reminds employers of their responsibility to provide safe and healthy workplaces and to recognize and address hazards, which includes unsafe air quality. The Agency says part of that responsibility includes:

- Closing outdoor work activity when the air quality in an area becomes "unhealthy" or reaches an Air Quality Index (AQI) of at least 151;
- Allowing employees with underlying health conditions to stay home;
- Re-arranging work schedules, hours, and tasks in a way that enables employees to get relief from smoky outdoor air; and
- Providing N95 masks, where and when appropriate, and informing employees of their proper use and care.

Employers are encouraged to check the state's Air Quality Index Map and air quality ratings at the beginning of a shift and every hour into the shift to ensure employees are not working in "unhealthy" or worse conditions. Indoor air quality also may become a concern. Employers are encouraged to check a building's ventilation system to ensure it has received routine maintenance, such as filter changes.

Affected outdoor operations include farming harvests, construction, and those in which outdoor activities require heavy and prolonged exertion.

OSHA Publishes Company-Specific Injury Rates Online

If you have submitted data through OSHA's electronic Injury Tracking Application, you should know that the data is now available online to the public. This data, for calendar years 2016 - 2018, contains the establishment name, address, hours worked, and basic information on the number and type of injuries. It does not include employee names.

The current OSHA administration had decided not to release the information. Still, that move was met with several legal challenges, at least one of which OSHA lost in the Northern District of California.

For now, employers should be aware that the data is out there. How it will impact any particular employer remains to be seen. It is possible that news outlets, potential workers, advocacy groups, and others will use the data, bringing into focus your company's injury and illness records. If misinterpreted, some of the data might paint companies in a less-than-favorable light.

Companies should inform upper management and the communications team to determine a strategy to address any negative press.

Getting Ready for the HOS Changes: 30-Minute Breaks

The new federal hours-of-service (HOS) rules could provide your drivers with a lot more Flexibility — and your company with more productivity.

Effective September 29, 2020, the changes impact four areas of the HOS rules in 49 CFR Part 395:

1. The 30-minute break rule,
2. The 100-air-mile exception,
3. The sleeper-berth provisions, and
4. The exception for "adverse driving conditions."

It is important that drivers, dispatchers, and others at the motor carrier who are affected by these changes apply the rules correctly — or face the risk of increased liability.

The first topic, in part one of a four-part series, is the 30-minute break for property-carrying drivers operating commercial motor vehicles (CMVs) in interstate commerce.

Old vs. new rule

This rule (49 CFR §395.3(a)(3)(ii)) is designed to make sure truck drivers get a break from driving if they intend to continue driving late into the day.

Current / Old Rule

- A 30-minute rest break is required after 8 *consecutive* hours on the clock if the driver will continue to drive a CMV.
- Drivers must be off duty and/or in a sleeper berth for their breaks.

New Rule

- A 30-minute break from driving is required after accumulating 8 hours of *driving* time if the driver will continue to drive a CMV.
- Drivers may remain on duty (not driving) for their breaks.

What's, are the advantages of the new rule?

Impacts of the new rule include the following:

- Anything a driver does for 30 consecutive minutes *besides driving a CMV* will count as a valid break.
- A break will be needed only by those who drive a CMV more than 8 hours per workday. Fewer drivers, therefore, will need the break to remain in compliance, which will reduce violations.
- Many drivers will have the Flexibility to shift their breaks to a later point in the workday (after 8 driving hours rather than 8 consecutive hours after starting the workday).
- Drivers will gain productivity since they need only stop driving for their break, they can continue to perform other work activities. They will be able to load/unload fuel, do vehicle inspections or paperwork, or engage in other work activities during the 30-minute break.
- Some segments of the industry already have a special exemption allowing them to remain on duty for their breaks, such as haulers of explosives or ready-mix concrete. Those exemptions will no longer be necessary.

Cautions to consider

Even with the advantages of the new 30-minute break requirement, driving while fatigued is still prohibited, making off-duty rest breaks an important option for many drivers. Company policies may still require drivers to log off duty for their breaks.

Parking shortages will not be an excuse to violate the rule. Drivers should not wait until they drive nearly 8 hours before seeking a place to park for their break.

In addition, finally, be sure to consult with an HR professional for guidance on complying with state labor laws if your state mandates rest breaks.

DOL Unveils Four New FLSA Opinion Letters

On August 31, 2020, the WHD issued four new opinion letters that provide employers with compliance assistance related to the Fair Labor Standards Act (FLSA).

Below are brief recaps of the new opinion letters:

1. **Exempt drivers:** This first letter is not about the typical driver motor carrier exemption. It addresses whether a private oilfield service company that provides waste-removal services for oilfield operators may qualify as a retail or service establishment eligible to claim the FLSA's exemption for certain truck drivers whom it employs. In short, it may. The WHD concluded that the company's waste removal services are not different from services furnished to the general public and are recognized as "retail" within the industry.
2. **Reimbursing drivers:** This second letter addresses an employer's compliance with FLSA's minimum wage requirements when reimbursing delivery drivers for business-related expenses incurred while using their personal vehicles during employment. Employers are allowed to make a reasonable approximation of drivers' actual expenses. The IRS business standard is not mandated.
3. **Exempt employees:** The third letter addresses whether part-time employees who provide corporate-management training and are paid a day rate with additional hourly compensation qualify for the learned professional exemption and the highly compensated employee test under the FLSA. In short, they do not. The WHD concluded that the employees in this situation likely perform learned professional duties, but the employees are not being paid appropriately to meet the salary basis test. Further, the highly compensated employee test cannot be satisfied by payments proportional to the amount of work performed by a part-time employee.
4. **Fluctuating workweek:** This last letter addresses whether employees' hours must fluctuate above and below 40 hours per week to qualify for the fluctuating workweek method of calculating overtime pay. They do not. The WHD concluded that the fluctuating workweek method of calculating overtime pay only requires that an employee's hours worked fluctuate from week to week, not that they have to fluctuate above and below 40 hours per week. The WHD went on to remind the employer, in this case, that they may not make deductions from an employee's pay for occasionally absences, except for certain disciplinary actions.

Opinion letters are an official, written opinion by the DOL's Wage and Hour Division (WHD) on how a particular law applies in specific circumstances presented by a person or entity/business.

While each letter is unique, all employers may benefit from their content by using the information within them as a guide if they encounter a similar scenario.

DOL Revises FFCRA Regulations

The U.S. Department of Labor (DOL) acted fast to respond to a district court's claim that it overstepped its authority in a few provisions of the Families First Coronavirus Response Act (FFCRA). Of the issues described by the court, the DOL reaffirmed its position on half with an explanation of why, and generally accepted the court's opinion on the other half:

- The DOL reaffirmed that paid sick leave and expanded family and medical leave may be taken only if the employee has work from which to take leave. The court had argued that the regulations applied this in only three of the six qualifying reasons for leave. It now applies to all qualifying reasons to take paid sick leave and expanded family and medical leave. The qualifying reason must, however, be the actual reason the employee is unable to work, as opposed to a situation in which the employee would have been unable to work regardless of whether he or she had an FFCRA qualifying reason. Employers may not, however, avoid granting FFCRA leave by purporting to a lack of work for an employee.
- The DOL reaffirmed that, where intermittent FFCRA leave is allowed, an employee must obtain his or her employer's approval to take paid sick leave or expanded family and medical leave intermittently. One of the reasons is to help reduce the risk of spreading the virus, and another is that the reasons do not lend themselves to the allowance of intermittent leave for medical reasons. The DOL applied the principle that intermittent leave, where foreseeable, should avoid unduly disrupting the employer's operations. Because employer permission is already a precondition under the FFCRA for telework, the DOL felt it was also an appropriate condition for teleworking intermittently. The employer-approval provision would not apply to employees who take FFCRA leave in full-day increments to care for their children whose schools are operating on an alternate day (or other hybrid-attendance) basis because such leave would not be intermittent.
- In the context of who may be excluded from the provisions, the DOL revised the definition of "health care provider" to mean employees who are health care providers and other employees who are employed to provide diagnostic services, preventive services, treatment services, or other services that are integrated with and necessary to the provision of patient care. Before the revisions, this definition included many more individuals who did not provide services integrated with and necessary to the provision of patient care, such as building maintenance staff. Now, it is not enough that an employee works for an entity that provides health care services.
- The DOL revised the provisions requiring employees to give notice of the need for expanded family and medical leave (e.g., for childcare issues) before the leave is to begin. Employees are now to provide notice as soon as practicable. If the need for leave is foreseeable, advance notice is not prohibited and may be required as soon as practicable. If, for example, an employee learns on Monday morning before work that his child's school will close on Tuesday due to COVID-19-related reasons, the employee must notify the employer as soon as practicable — likely on Monday at work. If, on the other hand, the employee learns of the school's closure on Tuesday after reporting for work, the employee may begin taking leave without giving prior notice, but must still give notice as soon as practicable — likely on Tuesday. Documentation is also not needed before the leave is taken, but as soon as practicable. This information includes the employee's name, the dates for which leave is requested, the qualifying reason for leave, and an oral or written statement that the employee is unable to work.

The revisions are effective on September 16, 2020. The law is still effective only until December 31, 2020.

DOL Proposes Rules to Make it Easier to Classify Workers as Independent Contractors

Employers will have an easier time classifying workers as independent contractors under the Fair Labor Standards Act (FLSA) in a new U.S. Department of Labor proposed rule.

The simplified framework would help take out some of the confusion that has surrounded this determination. This issue has been contentious as of late due to the rise of the gig economy, which hinges on independent contractors.

In the past, the interpretation of the determination was more comprehensive, making it more challenging to classify a worker as an independent contractor.

The rule would:

- Adopt an "economic reality" test to determine a worker's status as an FLSA employee or an independent contractor. The test considers whether a worker is in business for himself or herself (independent contractor) or is economically dependent on a putative employer for work (employee);
- Identify and explains two "core factors," specifically:
    - The nature and degree of the worker's control over the work, and
    - The worker's opportunity for profit or loss is based on initiative and/or investment.

These factors help determine if a worker is economically dependent on someone else's business or is in business for himself or herself;

- Identify three other factors that may serve as additional guideposts in the analysis:
    - The amount of skill required for the work;
    - The degree of permanence of the working relationship between the worker and the potential employer; and
    - Whether the work is part of an integrated unit of production; and
- Advise that the actual practice is more relevant than what may be contractually or theoretically possible in determining whether a worker is an employee or an independent contractor.

Employers need not provide independent contractors with the same benefits and wages they must provide to employees since an employee-employer relationship is not established with independent contractors.

States have been grappling with this issue, introducing laws, such as California's AB5, which requires independent contractors to, among other things; perform work tasks that are outside the usual course of the company's business activities.

The comment period on the proposed rule will be open for 30 days after it is published in the *Federal Register*. It may be fast-tracked to a final version to avoid issues should a new administration come along. If the Senate were to become under Democratic control, the rule may be undone via the Congressional Review Act.

Background Checks

A background check is defined as one or a combination of reports collected about individuals for an employment purpose. It may include a credit history, criminal records, driving records, past employment, education, references, professional licenses, military service, social security number, substance abuse records, workers' compensation, and other records. Other terms used to refer to background checks include reference checking and employee screening.

Purpose

Often a job application, resume, or interview does not tell an employer all the necessary information relevant to employment eligibility. In fact, some candidates falsify or exaggerate items on their resume or job application. That is where background checks can be used as a revealing tool for more and often more accurate, employment eligibility information.

In addition, background checks are not always an option, but a requirement positions. Examples include school bus and commercial motor vehicle drivers, law enforcement and security officers, childcare workers, patient care workers, teachers, and financial institution workers.

Another reason to perform a background check is to avoid liability for negligent hiring. In some situations, employers may be liable for serious actions an employee takes at work if the employer was negligent in hiring that employee. See the EZ Explanation called Negligent Hiring.

Laws

Before performing a background check, the employer will want to understand all the state and federal laws and regulations related to background checks. One very important law is the Fair Credit Reporting Act. This topic is covered in more detail in another EZ Explanation called the Fair Credit Reporting Act. Basically, this act protects prospective employees, existing employees, and other individuals by requiring employers to follow certain steps, including obtaining the individual's written consent when obtaining a consumer report from a consumer reporting agency. There are some exemptions when investigating employee misconduct.

Where to look

When performing a background check, there are a number of places to look for information, including, but not limited to:

- Resume, application, and interview;
- Personal references;
- Federal, state, and local government agencies;
- Educational institutes;
- Previous or current employers;
- Professional organizations;
- Online databases; and
- Consumer reporting agencies.

Defamation

One-snag employers run into with background checks is concern about liability for defamation. Many former employers decline to respond to questions about a prospective employee, or they provide minimal information because they are concerned that the employee may bring suit for defamation if they say something negative. Although truthful statements will not support a defamation claim, the employer may have to prove the statements are true. To remedy this, some states have passed job reference immunity laws that provide protection for good faith statements. See the Post Employment Inquiries EZ Explanation for more information.