

I am often asked if there is a way to ensure that an employee who quits will not later sue the employer. As I always say, there is no way to be bullet proof because a person does not have to be right to file a suit. There are ways, however, to limit the likelihood of an employee prevailing against the employer. Of course the employer wants to ensure that during employment employees are treated fairly and that policies and procedures are enforced fairly and uniformly.

Assuming good employment practices during employment, what can be done at the time the employee leaves? The employer could offer the departing employee some form of severance and have the employee sign a comprehensive release, but a release is only effective if the departing employee is receiving some compensation or consideration to which he/she is not otherwise entitled. If the employer does not want to pay a severance and the employee is leaving, is there anything that can limit the likelihood of an employee later filing an action?

Employers should consider including in their employment handbooks a requirement that all employees leaving employment will need to complete a short exit interview prior to picking up their last check. Having the employee acknowledge that he/she is voluntarily resigning and specifying the reasons for leaving is a good practice which can be valuable in defending any employment claims.

Consider using a short exit interview form like the one attached. The form is not a release of anything; it is a tool the employer can use to confirm whether there are any issues. An employee will have a difficult time prevailing in an employment action if he/she has not notified the employer of the problem.

On the attached form, the employee has an opportunity to detail any job dissatisfaction reasons for leaving. If the employee checks this box, the employer will want to investigate to determine if there are any legal issues.

For example, if an employee checks job dissatisfaction and says "I don't feel like I am paid enough for how hard I work" the employer needs to confirm that the employee has been paid for all hours worked and is not owed any minimum wage or overtime. The employer should also ask the employee to confirm that he/she has not performed any "off the clock work."

If the employee includes something that indicates some form of harassment like "I am uncomfortable because I am teased about my sex" the employer will want to immediately conduct an in-depth investigation starting with very sensitively asking questions to the departing employee, conducting an interview of other employees, and the accused harasser. If the claim appears warranted, the employer will want to properly discipline the harasser and offer the departing employee a position where he/she does not have to deal with the harasser. While there are many defenses to a harassment claim, the employer may want to negotiate a release offering some form of compensation. It is always advisable in the event that there are any facts that indicate a possible legal issue to immediately seek legal counsel. Please contact CBL if you have questions about employment termination or limiting employment liability.

## Employee Resignation Exit Interview

Employee name: \_\_\_\_\_ Date: \_\_\_\_\_

Position: \_\_\_\_\_ Department: \_\_\_\_\_

Last date of employment: \_\_\_\_\_

Employee has voluntarily resigned due to:

- Personal and/or family reasons
- Moving
- Better opportunity at another company
- Job dissatisfaction [*please provide details*] \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

- Other [*please provide details*] \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Employee comments: \_\_\_\_\_

Employee signature: \_\_\_\_\_ Date: \_\_\_\_\_

Manager or Supervisor comments:

Manager or Supervisor signature: \_\_\_\_\_ Date: \_\_\_\_\_

*Document if employee declines to sign and obtain witness signature.*

Witness signature: \_\_\_\_\_ Date: \_\_\_\_\_

Notes: