

Please Release Me

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I have been dealing with a lot of claims recently from unhappy clients who have either been charged with employment discrimination or threatened with suit by disgruntled former employees. What to do? One word: release.

I'm begging you have your outgoing employees sign a release of all claims and promise not to sue. This requires a good form and a payment to the outgoing employee. The payment is required to create an enforceable contract: you pay them, and they release your business from claims. A lot of employers are understandably reluctant to pay severance to people they've let go. However, it can be a very small payment. Employees appreciate the gesture as well, and this may decrease the chances that they bad-mouth the business. (A good release also includes a promise not to disparage the business, however.) It can cover all potential claims arising up to the time of signature and can also alert employers to any potential claims (for example, a workplace accident.)

A smattering of recent examples:

1. The minority employee who charged the employer with race discrimination (the same person hired and fired the employee, obviously making it far less likely that the decision-maker was biased.)
2. The employee who charged the employer with disability discrimination and failure to accommodate disabilities (the person never reported any disabilities, the decision maker had no knowledge of any, and the person never requested accommodations).
3. The employee who claimed to have reported a financial discrepancy to the employer (they don't recall this employee ever discussing financial matters), and thus, they claim that they were discharged in retaliation for whistleblowing.

The list goes on; these are just a few recent examples.

Don't be afraid to let an underperforming employee go, but give them a week's severance and get that release signed. Check with an employment attorney to be sure that your release covers all potential legal issues.