

Employee Terminations Law Bulletin

APPROVED

By *lisa gregory* at 10:09 am, Nov 02, 2016

How Employers Face the Challenges of Litigation Associated with Dismissals, Restructuring, and Layoffs

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Spotlight

Does the choice of day make a difference when firing employees?

by *Maureen Minehan*

Ask a bunch of employers which day of the week they think is the right one for firing an employee and you are likely to get a variety of answers. There will be a group that swears Friday is best, with an equally vocal contingent that says Monday is ideal. Another group will argue that both of those are wrong and that Tuesday is the day to pick because it gives you time to prepare on Monday and the employee time to make peace with the decision before the weekend.

THE FLAW IN FRIDAY FIRINGS

The preference for Friday often stems from discomfort around the firing or concerns that coworkers will be upset. If the employee is terminated on Friday, the reasoning goes, everyone will have the weekend to recover and come back on Monday ready to get back to work.

Dr. Richard Deems, author of *I Have To Fire Someone!* and a director in the Scottsdale, Arizona, office of WorkLife Design, says there is a flaw in this plan—it raises the risk of a wrongful termination claim. “For some reason, that first

weekend of being unemployed is the toughest for people who’ve just been fired. There’s extra time on their hands. They know there’s no place to go on Monday morning. Friends aren’t at work so they have extra time to stop by or call and talk about what a rotten deal it was. Some friend or neighbor will usually say, ‘Gee, why don’t you talk to my cousin the attorney?’ Anger and frustration tend to increase.”

Karen Young, head of HR Solutions in Harrisburg, Pennsylvania, also warns against Fridays. “Business contacts are less available and bars are open with no obligations over the weekend—people tend to self-pity longer when terminated on a Friday.”

“Unless it’s for gross misconduct, Friday firings do more harm than good,” Deems says.

THE ARGUMENT FOR EARLY IN THE WEEK

Deems is an advocate of terminating employees early in the week. “Employers of choice provide some form of job transition assistance, and when a termination is conducted early in the week, the outplacement specialists have time to begin their work. By the first weekend, the exited employee is already thinking about the future, and best skills, and next challenges—not about talking with an attorney.”



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POSTMASTER: Send address changes to, Employee Terminations Law Bulletin, 610 Opperman Drive, P.O. Box 64526, St. Paul, MN 55164-0526.



THOMSON REUTERS

610 Opperman Drive
P.O. Box 64526
St. Paul, MN 55164-0526
1-800-229-2084

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ISSN 1063-097X

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ANY DAY CAN BE A GOOD DAY

Kent Burns, president of Simply Driven Executive Search in Indianapolis, argues there is no “better” day to fire someone. “The manner in which you terminate is much more important than when. We terminate on the same day that leadership reaches the conclusion that a termination is warranted.”

In a perfect world, the day and time will not matter much because you will have regularly communicated your expectations to the employee and his or her termination will not come as a shock to anyone.

That is Young’s advice, too. “I always recommend ‘as soon as you’ve made the decision.’ Too many things can happen when there is a delay between decision and termination—for example, the employee can get hurt at work or the employee can become ill and the termination becomes complicated because of disability laws.”

DISAGREEMENT ABOUT TIME OF DAY

Another question that brings different answers is the best time of day. Deems says the earlier the better, while Burns prefers later in the day. “When you fire . . . early in the day you can deal with any negative reactions by anybody within the workforce before there is any major problem. You stay in control of the entire termination process,” Deems says.

“We terminate at the end of the day to minimize disruption to the organization,” Burns explains. “My people are smart enough and aware enough that they know who’s performing and who’s not. My job is to be decisive and take the appropriate action to preserve our culture of high-performance.”

THE BOTTOM LINE

In a perfect world, the day and time will not matter much because you will have regularly communicated your expectations to the employee and his or her termination will not come as a shock to anyone. You will have a clear plan in place for your termination meeting, a neutral third-party to serve as a witness and all postemployment services or referrals that you offer lined up so the employee can begin the transition to ex-employee quickly and easily.

Maureen Minehan is a Washington, D.C.-based freelance business writer specializing in human resource management.

Age Discrimination

Airport parking facility lets older worker go after business audit reveals her job could be automated

Citation: *Haggenmiller v. ABM Parking Services, Inc.*, 129 Fair Empl. Prac. Cas. (BNA) 893, 2016 WL 4791860 (8th Cir. 2016)

The Eighth U.S. Circuit has jurisdiction over Arkansas, Iowa, Minnesota, Missouri, Nebraska, North Dakota, and South Dakota.

A 60-something administrative worker for ABM Parking Services Inc. (ABM) could not proceed with her claim that she had been terminated, in violation of the Minnesota Human Rights Act, after her position was eliminated, the Eighth U.S. Circuit Court of Appeals has ruled.