



LAW NOTES

from the Law Firm of
Kay & Andersen, S.C.

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What Every Employer Should Know.....

ABOUT PUBLIC STATEMENTS REGARDING AN EMPLOYEE'S TERMINATION

Employers frequently struggle with how to explain an employee's termination for misconduct to other employees. In Riley v. Schultz, 2007 AP 470 (Wis. Ct. App. August 28, 2007), available at <http://www.wisbar.org/res/capp/2007/2007AP000470.htm>, Louisiana-Pacific employee Riley was terminated after Louisiana-Pacific concluded that Riley and some of his co-workers had made "dry ice bombs" and thrown them around during a night shift. Riley contended that the plant manager held five meetings for production shifts and office staff during which the plant manager allegedly said that the terminated employees had engaged in "criminal" and "terroristic" activities. Riley sued the plant manager and Louisiana-Pacific for defamation, alleging he had falsely been labeled a criminal and a terrorist. Louisiana-Pacific asked the case to be dismissed on the basis that the statements were permissible under a "common interest privilege," which served the mutual interest of Louisiana-Pacific and its employees in keeping the plant safe. The circuit court agreed with Louisiana-Pacific and dismissed the case, and that decision was upheld on appeal. Although a common interest privilege is abused when the speaker makes a statement with reckless disregard for its truth or falsity, or part or all of the statement is not necessary for the accomplishment of the purpose of the privilege, the Court of Appeals concluded that Louisiana-Pacific's conduct in this case was reasonable because Riley did not dispute evidence that 15 to 20 ice bombs had gone off and that the loud explosions frightened a number of employees. The Court of Appeals also held that there was nothing unreasonable in the plant manager's belief that the dry ice bombings were a serious safety violation and against the law, and that sending a strong message to co-employees was needed to discourage similar violations in the future. When an employer has questions or concerns regarding an employee termination or its aftermath, Kay & Andersen, S.C. can provide the employer with the necessary guidance to resolve the situation.

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