

# Say goodbye to employees without tears

By Jennifer L. Knudson, Neider & Boucher, S.C.

**T**erminating an employee is a difficult situation, and one that most employers will someday face. Acting with professionalism, knowledge and preparation helps avoid future legal claims. When terminating employees, employers should consider the following:

**The “at-will” rule is not absolute.** In Wisconsin, “at-will” employment means that an employer may discipline or terminate the employee at any time, with or without cause or notice. Nonetheless, this rule is not absolute and is often limited by public policy, express or implied contracts or employment laws. Having a legitimate, non-discriminatory reason for the termination will help defend against claims of wrongful or discriminatory termination.

**Be compassionate but firm.** As tough as a termination is for an employer, it is obviously more difficult for the employee. Termination

may cause embarrassment or anger, and how an employer treats its employee may prevent future litigation. At the termination meeting, allow the employee to comment but do not argue or negotiate. The decision to fire should have been made before the termination meeting, and if there are additional things to consider or to negotiate, it is not time to terminate.

**Document, document, document.** Make sure the documentation supporting the termination is in order and complete before the termination takes place. Failure to do so implies that no problems existed at the time of the termination but were fabricated after the fact.

**Consult human resources or legal counsel before termination.** Human resources and legal counsel can guide employers through the maze of employment laws and issues that arise with a termination. If an employer terminates without

consulting these individuals, it may be too late.

**Plan your termination meeting carefully.** Prepare an outline or script to follow during the termination meeting. Employers should plan on keeping the termination meeting short and having at least two company representatives present. Prepare to tell the employee all the reasons for the termination that may be relied upon later. Finally, arrange to disconnect the employee’s e-mail and voicemail and to collect employer-issued property



**Jennifer L. Knudson**  
*Attorney*

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**Neider & Boucher, S.C.**  
**(608) 661-4500**