

The Importance Of Documentation In Defending A Termination Decision

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This blog post is the inaugural post in what is intended to be an examination of lessons learned for employers through trial court decisions. One might ask – why trial court decisions? The answer is simple – trial court judges are charged with examining the facts of each case when deciding who wins. And it is this examination that provides the lessons learned for employers. The name of the case, and even the jurisdiction, are not important. But the facts are critical: Prior to going on leave, an employee (named Robinson) processed a request for reimbursement. While Robinson was on leave, the reimbursement request was reviewed, and the company determined that it was possible that Robinson had falsified the form that she filled out to process the reimbursement request. When she returned from leave, in a meeting between the two of them, Robinson’s supervisor discussed the form with Robinson, who allegedly admitted she had not verified certain information because she “did not care about quality” as she “was going to have surgery in a couple of days and just didn’t care.” This alleged response – which Robinson denied making in the lawsuit – prompted an investigation, during which Robinson was interviewed by a human resources representative with a note-taker / witness present. The human resources representative completed a termination worksheet – which was dated three weeks prior to the interview with Robinson and while Robinson was still on leave. The termination worksheet stated that Robinson told her during the interview that she “just wanted that paperwork off [her] desk.” Unfortunately for the employer, the note-taker’s notes did not reflect this statement (or anything like it). Summary judgment for employer denied! So what are the lessons learned?

1. If you base a decision on something an employee allegedly said to someone else, and you did not hear the statement, it is a good idea to ask the employee about the statement before deciding whether to terminate.
2. It is preferable to wait to fill out termination documentation until after you interview the person to be terminated – and if you do draft termination papers before an interview is completed, make sure you don’t complete it (or date it) until after the interview.
3. If there are notes or statements, review the note-taker’s notes before you complete the termination documentation and make sure the documents match.

Learn more about the case, [Robinson v. Abbott Laboratories](#), which was

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