

DEFENSIVE DOCUMENTATION from Hiring to Firing



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THE IMPORTANCE OF DOCUMENTATION

- Employer Complied with Policy/Disciplinary Procedures
- Demonstrate Consistent Application
- Preserve (or Refresh) Memory
- Employer Complied with the Law

*Remember who is actually on trial:
Documentation can make or break your case!*



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Documentation Fundamentals

- Prepare Promptly
- Important Incidents
- Policy/Job-Related Standards
- Be Specific
- Objective – avoid subjective
- Rules apply to email, text and social media
- Manager notes?

THE APPLICATION

At-will status

No oral contracts

Arbitration / Class Action / Jury Waiver

Release (current / prior employers)

Affirmation / After Acquired Evidence

Background check authorization

THE INTERVIEW NOTES

- AVOID PHYSICAL DESCRIPTIONS TO REMEMBER CANDIDATES
- AVOID SUBJECTIVE COMMENTS
- FOCUS ON OBJECTIVE QUALITIES OF PROMISING CANDIDATES

THE OFFER LETTER

- At Will Status / No oral contracts to the contrary
- Contingencies (drug testing, background check, signing NDA)
- Initial Position & Compensation
- Benefits – subject to change
- Relocation reimbursement (cap)

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2024 Essential Employment Law: A Practical Course in the Basics session
"Effective and Defensive Documentation from Hiring to Firing"