EXECUTIVE TERMINATION**

1. GENERAL


Incompetence at firing can be costly in terms of court settlements and employee retaliation. Coulson, president of the American Arbitration Association, addresses those on both sides of the firing line. He suggests steps employers may take to avoid harmful impacts of termination on other employees and ways to respond to legal confrontation. Coulson discusses specific signs and behavior patterns that enable an individual to anticipate an impending discharge.


Mr. Grossman, a specialist in termination litigation, estimates that approximately one in every fifty executives is asked to leave his/her job. He proposes that an initial contract be drafted to protect: 1) both parties by covering all financial matters and 2) the right of each party to legal aid. He also offers suggestions as to what would constitute firing for just cause, apportioning severance packages, and selection of outplacement services.


Harris, a lawyer, points out that to begin any legal action an employee must be able to prove that his/her position has been terminated without just cause. The remaining question then, is one of quantification of the damages. Harris stresses that assessment of the damages owed a discharged executive is difficult to calculate and adds that each case must be individually studied. Factors such as salary, age, seniority and job title are often used to determine compensation damages.


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** Items from this list should be ordered directly from the publisher. Addresses are given in connection with each reference.
The erosion of the common-law doctrine of 'employment-at-will' is prompting dramatic changes in termination policies. Middle managers, reports Nye, are especially aggressive in taking their former employer to court. The author examines corporate reaction to this trend and possible reasons for it. He points out that effective discipline involves traditional standards such as: making sure employees know the rules of conduct; job-performance targets; and, the consequences of not meeting performance standards.

Perham, John. "Can managers be fired?" *Dun's Business Month.* (666 Fifth Ave., New York, N.Y. 10019). May, 1982. pp. 60-65. $2.25. The issue of employee dismissal is expected to be one of the greatest employee relations challenges in the upcoming years. Several recent important legal cases, discussed in this article illustrate how the courts are becoming aggressive in helping discharged employees. A related article appears in *Dun's Business Month* in October 1982 issue ("I was fired," by Melvin J. Wiersum).

Porter, Albert L. "The myth of managerial tenure, a pink-slip disaster plan including 'individual termination account.' " *Human Resource Management* (Univ. of Michigan, Graduate School of Business Administration, Ann Arbor, MI 48109). Summer, 1977. pp. 2-16. $2.50. Because employment contracts are rare among executives, they can be dismissed at any time with little warning or explanation. Porter discusses the myth of managerial tenure in philosophical and practical terms. He recommends an "emergency plan" as essential to avoid financial or psychological hardships. Nine precautionary steps which Porter calls "the pink-slip disaster plan" are outlined. A subsequent article in *Human Resource Management* is "How to dehire: a guide for the manager," by Stanley Schwartz, Winter, 1980. pp. 22-25.

Stybel, Lawrence J., Robin Cooper and Maryanne Peabody. "Planning executive dismissals: how to fire a friend." *California Management Review* (University of California, Berkeley, School of Business Administration, 350 Barrows Hall, 94720). Spring, 1982. pp. 73-80. $4.50. This article examines options that are available to a corporation regarding executive dismissal. The authors outline an agenda for an executive termination, pointing out that the key to dismissing a fellow executive is to ensure that the job transition is successful. Careful planning of the dismissal interview, severance arrangements and outplacement counseling are just a few recommendations stressed by the authors to protect both the company and the executive.

Towers, Perrine, Forster and Crosby. *Worldwide total remuneration* (600 Third Ave., New York, N.Y. 10016). 1982. 28 pp. On request. This sixth edition of the TPF & C worldwide executive compensation report examines the different practices and trends of cash remuneration and benefits in nineteen countries. Specifically, a portion of the report focuses on termination payment practices. Termination payments are just a portion of the legal liabilities the company may face and may also include
full vesting of all pension rights, salary continuation, benefit plan continuation and other penalties. In at least ten countries termination payment is subject to government regulation while in others, custom makes it an accepted and expected practice.


The adverse job market due to the economic slump has a direct bearing on corporate executive termination payouts, reports Wente. While in the past, severance settlements were based on seniority and job title, the current trend has been to base settlements on how long before a replacement job can be found. Settlement payoffs have been known to go as high as a full year's salary. See also "How to get fired," by Philip H. Palther (Canadian Business, May, 1982, pp. 60-63).

2. LEGAL DISCUSSIONS


This article examines traditional legal rules applicable to at will employees and also recent legal developments. Under common law an employee hired for an indefinite term can be dismissed with or without just cause. Increasingly, such terminated employees are filing suits claiming wrongful dismissal. Although the body of law has been supportive of employers in this area, the legal principles governing at will employees are currently in a state of change.


The common law rule that presumes employment, not protected by collective bargaining agreements or contracts, and therefore terminable at the will of the employer, has come under increasing attack. This legal note, "proposes a comprehensive economic rationale for judicial revision of common law rules to provide at will employees with an expanded private remedy for wrongful discharges," and examines both the history and recent developments of the Employment-at-Will Doctrine.

3. OUTPLACEMENT SERVICES


Outplacement is becoming standard personnel corporate practice and it is estimated that its use will increase 20% through 1986. This article offers guidelines and options for developing an in-house outplacement program, or contracting with an outside consultant. Specific components of an in-
house program are listed and discussed in detail, including program structure, size, facility requirements, workbook design and evaluation procedures. See also earlier article in Personnel Journal ("Terminating people from key positions." By Stephen S. Hagen, February 1978, pp. 96-98.)


This book is addressed to personnel managers responsible for establishing and maintaining company termination practices. Subject areas include termination practices common in industry today; development of new practices; translating termination policy into action; preparation for a termination interview; and a close study of outplacement programs.


Outplacement, a program assisting terminated executives in finding new positions, has been in practice since the early 1970's. Outplacement focus has been on an individual basis up till now. This article focuses on an outplacement effort adopted by a large corporation when it was forced to divest a subsidiary resulting in the displacement of over 200 personnel. The results of the program were desirable from the corporate, personal, and even community viewpoint.

4. Employment-at-will
