



DOUMAR LAW GROUP NEWSLETTER

A Periodic Publication of Popular Client Issues and Concerns

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Job References: If You Can't Say Anything Nice, Stick to the Facts

Job references have been the subject of several recent inquiries, and Mom's adage not to say anything if you can't say anything nice remains generally sound advice. Also, do not lie to a prospective employer. Negative references have resulted in threatened defamation actions. This is why the firm has advised some companies to limit references to factual information such as name, dates of employment, and salary. Virginia law includes some protection to an employer in the form of Section 8.01-46.1, which provides qualified immunity from civil suit to employers who give references upon request to prospective employers in good faith.

Administrative Subpoenas Can Lack Teeth

A client received a subpoena from the D.C. Inspector General's Office, served by a burly agent telling him he had to appear with documents for testimony in three days. Failing to appear for a court-issued subpoena can result in contempt of court. But the penalty for failure to appear in response to the type of administrative subpoena served by the D.C. Inspector General is

– nothing. In case of non-compliance, the IG must file for a court order for the witness to appear. This lack of teeth – which applies to many types of administrative subpoenas -- makes it easy to negotiate extensions and limitations for various types of administrative subpoenas.

He's From The Government, and He's Not Here To Help

When a government law enforcement agent shows up at your door and has a few questions, ask him or her what it is about, ask for identification – and then – except for clearly administrative queries, for example confirming your friend's background for a security clearance -- you may be better off calling a lawyer. One client answered the door to find two FBI agents, and was happy to have them in to answer questions because he knew he had done nothing wrong. At his criminal trial, one of the FBI agents was a primary witness against him. If you call your lawyer, you may talk to the agent later, but the lawyer can call the agent, confirm that there is nothing to worry about, flesh out the line of questioning – and determine whether you are a potential target.