

LEGISLATIVE UPDATE

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Singer v. Beach Trading Co.
379 N.J. Super. 63, 876 A.2d 885 (App. Div. 2005)

Overview: NJ Appellate Court case decided July 2005. Court addressed whether an employer can be liable for damages for providing an inaccurate or false employment reference. Analyzes the theory of “negligent misrepresentation” in the employment arena.

Facts: Plaintiff worked for Beach Trading Company from July 2001 to June 2002. Shortly after her hire, the President of Beach Trading sent out an e-mail introducing Plaintiff as the VP of Daily Operations. In October 2001 Eli Hizami (individual Defendant) hired in customer service department. Around Christmas 2001, the President assigns Plaintiff to oversee the customer service department. In April 2002, Plaintiff applies for work with HRK as customer service representative. Based on Plaintiff’s resume, HRK’s owner hires her in June 2002 as customer service manager. Plaintiff’s performance at HRK is a factual issue. Several weeks after Plaintiff’s hire, owner of HRK “unofficially” contacts Beach Trading and speaks with Mr. Hizami and a customer service manager. Both say Plaintiff was never a VP or a manager. The HRK owner never contacts Beach Trading President or company officer. HRK owner fires Plaintiff. Plaintiff filed suit against Beach Trading on three claims – defamation, tortious interference, negligent misrepresentation. The trial court throws all three claims out. Appellate Division reverses on negligent misrepresentation claim

Holdings: Negligent misrepresentation claim is generally reserved for situation where statement is made directly to plaintiff. However, Appellate Division held that Plaintiff was “injured by its dissemination.” The legal issue was whether Defendants owed a duty to Plaintiff. The Court held that they did, so long as HRK’s owner was calling to verify employment, and defendants voluntarily responded to the inquiry, then Defendants had a duty to “exercise reasonable care or competence” in their response. The second question was whether Defendants breached this duty, and the Court held it was a factual question for a jury to decide. The questions to consider were whether the Beach Trading employees know what Plaintiff’s title was, whether they were acting in the scope of their employment when they answered questions and why did HRK fire Plaintiff.

Practical Tips: Consider having a well defined policy for all questions regarding former employees. If so, make sure the policy clearly defines who can answer these questions. If policy exists, make sure it is well communicated to all employees. Be wary of certain industries’ obligations to provide more information.