

Third Circuit Affirms Employer's Right To Provide Truthful Information In Response To Reference Request Without Liability To Former Employee

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In a recent unpublished decision by the Third Circuit Court of Appeals, the Court affirmed the lower court and held that a former employee could not maintain legal claims against his former employer, based on truthful statements regarding his employment provided to two prospective employers. In its ruling, the Court emphasized that an employer has a "conditional privilege" when it provides information regarding a former employee to a prospective employer.

In this case (*Bentlejewski v. Werner Enterprises, et al*), a truck driver (James Bentlejewski) employed by Werner Enterprises resigned after one year, and later began a training course with the prospect of employment with another transportation company. Pursuant to regulations established by the Federal Motor Carrier Safety Administration, the new company requested Mr. Bentlejewski's driving history report. In response, Werner provided information that Mr. Bentlejewski had been involved in several minor accidents, each of which was identified as "preventable." Based on this information, Mr. Bentlejewski was not offered the position. Almost a year later, Mr. Bentlejewski began probationary employment with another company, which was discontinued after the new employer obtained the same information regarding Mr. Bentlejewski's driving history with Werner. Several months later, Mr. Bentlejewski filed suit in federal district court in Pennsylvania against Werner, alleging that the employment references provided by Werner to the two prospective employers contained "false and misleading" information, and asserting claims for defamation and interference with contractual relations.

To read the rest of the post, [click here](#) to be directed to Kelley Drye's Media and Entertainment blog, [Drye Wit](#).