

# Results not typical. Individual results will vary.

By Luis Fragoso

A long term employee/department manager was terminated by our member after he attempted to manipulate the outcome of our member's recruiting process in favor of one of his direct reports. The former manager provided his preferred candidate the interview questions prior to his interview, helped him write a "thank you" note to the interview panel and even kept him apprised of on-going discussions about the applicants. Despite the manager's request to keep it private, and fortunately for our member, the candidate met with Human Resources and explained what was happening before a final hiring decision was made.

Following the manager's termination, our member received a letter from an attorney accusing our member of wrongful termination and demanding payment of hundreds of thousands of dollars, payment of the former manager's medical and dental insurance premiums for six months and non-opposition to any claim for unemployment compensation the former manager made. The attorney also demanded compliance with these terms within seven days in exchange for not filing a complaint with the Equal Employment Opportunity Commission and/or a lawsuit against our member.

In his letter to our member, the attorney conceded that his client had indeed coached his preferred candidate, but he did so only because said candidate was disadvantaged by the Human Resources Department's bias towards a different applicant. The attorney pointed out that in the many years working for our member, his client had no history of discipline or warnings and received stellar performance reviews; therefore, the punishment/termination was disproportionate to an isolated incident.

Needless to say, our member had more than enough evidence to support its decision to terminate and to show that the former manager had engaged in unprofessional and unethical conduct and that his actions had irreparably eroded the trust necessary to remain a part of our member's leadership team.

WCIA promptly retained counsel to review this matter and, after a meeting with our member, the decision was made to offer to resolve the case by converting the manager's termination into a voluntary resignation, providing him a very general reference letter and refraining from contesting his right to unemployment benefits. Surprisingly, even though no monetary compensation was offered, the offer was accepted within a few days.

Employment-related claims are some of the most complex claims we handle and this one was truly unique. In most employment cases, our members dedicate a vast amount of resources, sometimes for years, defending against allegations of discrimination, retaliation, harassment and wrongful termination.

The use of the WCIA Pre-defense and Risk Consultation programs can be valuable tools when addressing employment matters. These programs can help prevent potential future claims or litigation by having legal counsel provide advice early on before a claim is filed. Contact WCIA Risk Services Manager, Robin Aronson, to discuss if the use of WCIA's Pre-defense and Risk Consultation programs are right for your entity's needs.