

# Can an offer letter create liability?

**Q. Our company recently terminated a manager who had been with us for less than three months. He just seemed not to be the right fit. Now the former employee is threatening to sue, saying he left a good opportunity to take a job with us, based on our offer and what was said in the hiring process. We did use an offer letter, which stated that employment would be at-will and that the offer letter did not constitute a contract of employment. Do we have cause for concern?**

**A.** You might. There are certain legal claims the former employee could potentially make against your company, depending on the circumstances.

First, Minnesota has a statute under which it is unlawful to induce or influence a person to change jobs “by means of knowingly false representations” about the nature of the work. A federal district court recently held that this prohibition applies to work of any kind in the state. The statute provides for the recovery of “all damages sustained in consequence of the false or deceptive representations,” as well as the claimant’s attorneys’ fees incurred in connection with such recovery.

In a similar vein, there is a legal claim called “promissory estoppel” that is recognized in Minnesota for a person who has relied to his or her detriment on a promise made by an employer where “the promise must be enforced to prevent injustice.”

In the future, the best way to avoid both a statutory claim for fraudulent inducement and one for promissory estoppel may be to create and rely on written documentation, including potentially a written contract for employment expressed in an offer letter.

Where the offer letter clearly sets forth offer terms (including the facts that employment will be at-will and for no definite duration), it could be helpful for the letter to actually state that starting work constitutes acceptance of the offer and thus creates a contract for employment on exactly such terms as are stated in the letter. The existence of such a contract precludes a successful claim for promissory estoppel. Similarly, the existence of a clear document with such terms—which should also include a statement to the effect that no other terms are intended or implied—should preclude a successful claim under Minnesota’s statute about fraudulent inducement for employment.