

September 2008 - Article Published in Lifestyles Magazine

## **Federal Court Holds Negative Reference Violated Settlement Agreement**

by: Joette S. Doran, J.D.

A particular concern of any departing employee is what the former employer is going to say in response to a reference check by a potential employer. Because of this concern severance and other settlement agreements typically state what the former employer will disclose in response to a reference check. Due to concerns of liability for making a statement that could prevent a former employee from obtaining future employment, many employers have a policy which provides that only basic information will be disclosed in response to a reference check. This is typically referred to as a neutral reference policy where the employer will confirm only that the former employee worked for the company, the dates of employment and job title. Recently, the Seventh Circuit Court of Appeals found that an employer violated a settlement agreement between the former employee and employer where the settlement agreement provided that the employer agreed to provide information confirming only that the plaintiff had worked there, the dates of her employment, and her last position. In that case, the plaintiff filed suit against her former employer alleging breach of the settlement agreement since the former employer disclosed to the plaintiff's job consultant that plaintiff had sued the employer for employment discrimination several times. Based on this information the job consultant removed the former employer from the plaintiff's resume which left a 20-year gap in her work experience. Because the plaintiff expected that the reference from her former employer as provided for in the settlement agreement would make her a more competitive candidate in gaining future employment the Court held the negative information disclosed by her former employer could impair her ability to find employment. For additional employment information, please visit our web site at [www.joettedoran.com](http://www.joettedoran.com).

*\*This article is not intended as legal advice. You should consult with an attorney for individual advice regarding your own situation.*

MS. DORAN IS LICENSED IN ILLINOIS, ALL ILLINOIS FEDERAL COURTS AND IS A MEMBER OF THE FEDERAL TRIAL BAR. SHE IS THE PAST CHAIRPERSON OF THE EMPLOYMENT LAW COMMITTEE FOR THE NORTHWEST SUBURBAN BAR ASSOCIATION, A PAST PRESIDENT OF BARRINGTON AREA PROFESSIONAL WOMEN AND A MEMBER OF THE NATIONAL EMPLOYMENT LAWYERS ASSOCIATION.