How to Avoid the 5 Classic Firing Mistakes

1. **Keep your cool.** Avoid heightening an already emotional situation. Don’t spring the news suddenly or berate the employee in front of others.

2. **Avoid surprises.** Employees should never be completely surprised by a termination. Give them regular feedback on performance and suggest ways for them to improve. At the very least, poor performance reviews prove to a court that you had valid reasons for firing someone.

3. **Watch what you say.** On the day you fire someone, he or she will remember whatever you say in the worst possible light. While you should always avoid making discriminatory statements, be especially cautious during a termination meeting.

4. **Don’t be too kind.** You may feel compassion for the person you must fire, but don’t express your feelings in the wrong way. If the employee’s performance is substandard, don’t offer compliments on any aspect of his or her performance. Doing so might make you feel better, but it will only give the employee cause to question and challenge your reasons for the termination. And your off-handed compliments could turn up as evidence against you in a wrongful-termination suit.

5. **Keep quiet.** Don’t discuss your reasons for the termination with other employees. It’s enough to say, “Jamie will not be working with us anymore.” Some managers have spoken too freely about the reasons for a departed employee’s termination, only to find themselves in court defending themselves against a defamation-of-character suit.

Firings may cause employees to cry, become defensive or even turn violent. Others may even distort what happens during your firing meeting to justify a lawsuit against you.

To protect yourself legally, have someone else with you during the firing so no one can question what you say. Write a memo after the meeting summarizing what happened and have the witness sign it.

Here are five other ways to defuse fired employees’ justifications for a lawsuit down the line: