

# NEWS

LITIGATION DEPARTMENT

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WIGGIN AND DANA

*Counsellors at Law*

## Wiggin and Dana Wins Key Ruling Before Connecticut Supreme Court Unanimous Decision Adopts Qualified Privilege for Employee References



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In a case of first impression, the Connecticut Supreme Court today recognized a qualified privilege for employer references. Where an employee consents to a reference check and later sues the employer for defamation based on the employer's provision of the reference information, the employer cannot be held liable unless it made the statements with malice or improper motive. Wiggin and Dana LLP represented the employer, the University of New Haven, in this case.

“The Court's decision in Miron v. University of New Haven is significant because Connecticut had not yet addressed this issue, leaving employers in a precarious situation when asked to provide a reference for a current or former employee to a prospective employer,” said Aaron S. Bayer, chair of Wiggin and Dana's national appellate practice and lead counsel on the appeal.

By adopting a qualified privilege, Connecticut joins dozens of other states who have recognized a privilege either judicially or by statute. Justice Borden, writing for the unanimous Court, underscored the importance of frank and open communication regarding an employee's qualifications, explaining, “the integrity of employment references is essential to prospective employers and to prospective employees.”



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The plaintiff, a former University of New Haven police officer, sought employment as a municipal police officer. In connection with her applications, she consented to reference checks, and her prospective employers contacted her supervisors at the University of New Haven to discuss her capabilities. She subsequently sued the University of New Haven for defamation, claiming that the reference information it provided contained false and defamatory statements. The trial court found that the defendant's statements were subject to a qualified privilege, and the jury found in favor of the defendants, concluding that any false statements they made were not made with malice.

In affirming the trial court and recognizing a qualified privilege for references provided with the employee's consent, the Supreme Court made clear that employers who act in good faith and without improper motive will not be subject to liability for such statements. The Court's decision should help address the concerns of Connecticut employers about providing references, which has led some employers to provide little information other than an employee's dates of employment.

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## Wiggin and Dana Wins Key Ruling Before Connecticut Supreme Court Unanimous Decision Adopts Qualified Privilege for Employee References *continued*

Other members of Wiggin and Dana's legal team involved in the case include Kim Rinehart, who handled the appeal with Mr. Bayer, and Lawrence Peikes and Gregory Brown, who tried the case.

### **About the Wiggin and Dana Appellate Practice Group**

Long recognized as one of the premier litigation firms in New England, Wiggin and Dana has an accomplished Appellate Practice Group that provides knowledgeable counseling and representation in the increasingly specialized area of appellate practice. The Appellate Practice Group has extensive experience representing clients in federal and state appellate courts throughout the United States. In recent years, the Group has represented clients in the United States Supreme Court; the United States Courts of Appeals for the D.C., First, Second, Fourth, Fifth, Seventh, Eighth, Ninth, Tenth, Eleventh and Federal Circuits; and the state appellate courts of Alabama, California, Connecticut, Illinois, Kansas, Michigan, Montana, New Hampshire, New York, Ohio, Utah and West Virginia.

*Wiggin and Dana LLP is a full service firm serving clients domestically and abroad from offices in Connecticut, New York and Philadelphia. For more information on the firm, visit its website at [www.wiggin.com](http://www.wiggin.com).*

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