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Resume Inflation: Two Wrongs May Mean No Rights

Lying on your resume may leave you out of luck if you later want to sue your employer for wrongful termination or discrimination.

Many jobseekers inflate their resumes by exaggerating their experience or credentials. A recent study revealed that:

- 9% of job applicants falsely claimed they had a college degree, listed false employers, or identified jobs that didn't exist
- 4% listed incorrect job titles
- 11% misrepresented why they left a former employer, and
- nearly 33% listed dates of employment that were off by more than three months.

Employers have always been free to fire employees who lie about a significant qualification. Now they may be able to use this misinformation to defend against lawsuits for wrongful termination or discrimination. Courts reason, in essence, that employees who lied to get a job cannot later come to court and claim the employer did them wrong.

The emerging tactic even has a name: the After-Acquired Evidence Theory. Conduct that has been held sufficiently serious to be admitted as after-acquired evidence has included:

- 150 instances of falsifying company records
- failing to list a previous employer on a resume
- failing to admit being terminated for cheating on timecards
- failing to reveal a prior conviction for a felony
- lying about education and experience on a job application
- fabricating a college degree during an interview, and
- removing and copying the company's confidential financial statements.

If you did lie on your job application or resume, however, you may not be completely out of luck. Your employer can use the misinformation as a defense only if it was truly related to your job duties or performance. The employer must be able to show that you would have been fired -- or not hired in the first place -- if he or she had known the truth. Proving this type of second-guessing may not be easy.