

Last year, I wrote that 2011 will be a bonanza for Plaintiff attorneys! More and more employees are going to file suits against their employers “just because”. **You will see an increase in:**

- Unfair labor practice claims.
- Sexual harassment claims.
- Gender discrimination claims, and;
- The list goes on and on.

As the hiring practice is “fraught” with problems involving compliance, the Equal Employer Opportunity Commission (EEOC) has started their assault on business.

If you terminate an employee, without having taken proper disciplinary action, it can result in the terminated employee contacting EEOC with a complaint. I cannot stress the importance of quality performance reviews, proper handling of disciplinary problems before terminating employees, (with the exception of layoffs), **layoffs, I will discuss in upcoming reports.**

An employee has the right to know how they’re doing in their job – both praised, and if needed, disciplined. The adage praise in public, discipline in private cannot be more appropriate. **Too often, management seldom praises, but often disciplines employees in front of his/her peers.**

When an employee has violated a company policy, and is not disciplined about this violation, it will only lead to additional violations of the same and/or different nature by that employee; also, this will encourage other employees to follow the same example or be upset because that employee was allowed a concession they don’t have.

Neither situation should be allowed in your business, by you, your managers and/or supervisors. Violations might include attendance, arriving late or leaving early; rudeness, unsatisfactory work quality. **It might include carelessness, failure to follow instructions,** damaged material or equipment, insubordination, violation of safety rules, violation of other company policies or procedures, or working on personal matters.

Some infractions should not be made a “big deal”. The infraction should be noted at an appropriate time (shortly after the incident has taken place), then call the employee into your office and discuss the problem. **The information, date, time of the infraction, date and time of the interview,** should be documented and placed in the employees personnel file.

The documentation can be of considerable value, at some time later. I also encourage that, once you have discussed an issue with an employee;

- You “recap” by a letter the conversation to that employee.

THE AHERN ADVISORY

in this issue

Firing/Terminating an
Employee



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- Ask for the employee to acknowledge the meeting and discussion;
- Make sure he/she understands your concerns, and;
- Have them signature the document.

Some infractions call for immediate action. Should minor infractions happen with the same employee more than twice, the same action form should be used. **The action form should be fully completed, including both employee and employer statements and signatures as required.**

Should the disciplinary action result in a “warning” or “probation”; notice should be issued. All probation periods must have a start and ending date; it cannot be perpetual.

It’s important to understand that we live in a world where speedy response times are the buzz words in staying ahead of “the game”; solve problems before they occur. With the unemployment rate continuing to hover at 9.5% - 10%, and businesses continuing to lay off employees, **many unemployed workers will be looking for ways to generate income.** When you have attorney’s that are willing to sue, on a contingent basis, you need to protect yourself appropriately. **Failure to discipline your employees, in a proper and effective manner, and to express to them, in a verbal and written format, can cost you hundreds of thousands of dollar.**

If there are any words I can impart to you for the 2011 year is;

- Be prepared!
- Be prepared, and;
- Be prepared.

Anticipate, anticipate, and anticipate!

QUOTE OF THE WEEK: **“Everybody has something to conceal”** (Dashielle Hammett)