



Someone get the Goo Gone – Tackling Sticky Situations and Other HR Tips and Tricks

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C-Suite Misbehavior

Allegations of
Discrimination/Harassment

Financial Impropriety

Ethically Questionable
Conduct



C-Suite Misbehavior

- Title VII/ADEA/ADA
- FMLA
- FLSA
- Retaliation/Whistleblower
- Sarbanes-Oxley Act (SOX)
- Securities Exchange Act
- Assault/Battery
- Court of Public Opinion



C-Suite Misbehavior

- **Confronting your boss**
- **Uncomfortable**
- **Double standards**
- **Politics**
- **Retaliation**
- **Employee morale**
- **Public relations**



C-Suite Misbehavior

- Your role
- Who investigates?
- How do you conduct the investigation?
- How do you discipline a CEO?

X-Rated Scandals

- Office Romance Gone Sour
- Sexting and Other Unwelcome Advances
- Pornography



X-Rated Scandals

- Sexual Harassment
 - Unwelcome advances
 - Post break-up nightmares
 - Quid pro quo
- Retaliation
- In-Office Shenanigans
- Criminal Action
 - Child pornography
 - Stalking



X-Rated Scandals

Investigation

Be discrete and professional

Preserve evidence

Know when to call counsel

Know when to contact police

X-Rated Scandals

Prevention

- Have good policies
- Training is key
- Develop a process to independently monitor behaviors

Challenging Malingers

Who works harder?

You, complying with all the laws to get your employee back to work?

Or, your employee, working all the laws to stay home from work?

How do you put a stop on the malingers drain?

Challenging Malingerers



- Understand the laws
 - FMLA/ADA/WC Interplay
- Know and follow Company policies
 - Revise to prevent abuse
- Document, document, document
- Be patient

The background of the slide features a close-up of two hands, one from a darker-skinned person and one from a lighter-skinned person, reaching towards each other in a gesture of support or connection. They are set against a bright blue sky and a field of tall, golden-brown grass. A large, semi-transparent white circle is overlaid on the left side of the image, containing the title and list.

The Injustice Collectors

- Signs you have an injustice collector
 - Never wrong or made a mistake
 - Never apologize
 - Everything is unfair
 - Avoid responsibility
 - External orientation of problems

The Injustice Collectors

Performance issues continue

Difficulty with supervisors

Perception as a target

Dissatisfaction in company
response

The Injustice Collectors

- Be clear and thorough in documentation
- Communicate expectations
- Do not ignore the crying wolf
- Document complaints
- Investigate – and follow up – on complaints

Top 7 Employer Mistakes

Failing to train supervisors

Failing to document performance issues or leading up to termination

Not following company policies (this can show pretext)

Mishandling investigations

Not complying with FLSA (GET AN OPINION)

Having improper FMLA procedures

Mishandling terminations

Having out-of-date policies

Failing to Train Supervisors

Hiring

Evaluations

FMLA

ADA Accommodations

EQ

Handling Complaints

When to get HELP!

Documentation

Document, document, document – sign it, date it

Specific

Objective

“Just the Facts”

Timely

Consequences

Retain it



Ignoring Company Policies

What story will you tell?

Botching Investigations



Take any complaint seriously



Conduct a timely investigation



Don't promise confidentiality



Get the “other side of the story”



Chose the investigator wisely



Document, document, document – sign it, date it



Making exceptions



Not closing it out

Not Complying with the FLSA

Misclassification

Regular Rate

Overtime over 40

Independent
Contractors

Mucking Up Terminations

To give a reason or not to give a reason

Private

Courteous

Recordings

Neutral Reference

At will

Having Out of Date Policies

Annually

Reflect
current
practices

Reflect
current
technology

Reflect
current law

Audits

Improper FMLA Procedures

Use the DOL
forms

There are no
FMLA “terms”

FMLA is not a
factor in
evaluation or
discipline

The ADA follows
the FMLA



Questions?

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