



COMMON EMPLOYER MISTAKES

At one time or another, most of today's employers face lawsuits from their former employees. Whether the complaint is unlawful termination, harassment or failure to pay wages, employers should be more cautious and take steps to decrease the odds of facing litigation and avoid employer mistakes.

Despite these preventative measures, there are five common employer mistakes that may increase the odds and the cost of dealing with an employment-related lawsuit.

1. No Complaint Procedures/Anti-Harassment Policy in Place

Having a solid complaint procedure in place and an active anti-harassment policy can help employers defend against a harassment claim. It can be proven that the employee did not adhere to the rules under the policy, the employer's chances of success increase dramatically. Without regulations like these, employers will be at greater risk of losing their case.

2. Employee Evaluations Not Documented/Misrepresented/Inaccurate

The purpose of an employee evaluation is not only to monitor and record job performance, but also to help the employer show evidence of the employee's actions, should a lawsuit arise. As uncomfortable as it might be to give someone a negative evaluation, the evaluation should honestly record an employee's job proficiency and be discussed with and signed off by the employee. Employee documentation is crucial, especially if there are misconduct or performance problems.

3. No Definition of At-Will Employment

At the time of hiring, employers must define the parameters of at-will employment. In the offer letter, contract, and handbook, there should be proper legal language which explains that the employment is at-will. At-will employment means the employer or employee may terminate the relationship at will, at any time, with or without cause or advance notice.

4. Claim Investigation Not Effective

When an employee files a harassment claim, it's essential for the employer to conduct an effective and thorough investigation. Part of this investigation should include interviewing witnesses of the employee's behavior, and preserving any evidence that will support or defend against the claim.

5. Failure to procure employment practices liability insurance

There are several professional liability insurance policies available, but Employment Practices Liability Insurance (EPLI) provides proper coverage for most employee-related claims. Legal fees can be costly and without an EPLI policy, employers may face significant financial liability. While insurance may not prevent a claim for being brought, it will certainly reduce the potential cost of defending against the claim.

You will have a much better chance if you can avoid making the above five employer mistakes. For employers who may have difficulty handling the UI claims process, it's wise to hire a third-party to provide assistance.