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PERFORMANCE STANDARDS

Rutgers case teaches valuable lesson: Best defense is documentation

by Lauren W. Gershuny and Katherine E. Stuart

The New Jersey Conscientious Employee Protection Act (CEPA) is arguably the broadest employee protection law in the country. CEPA protects employees from workplace retaliation related to their whistleblowing activities. Thanks in part to the documentation of performance issues, in late November 2018, the New Jersey Appellate Division upheld a trial court's decision dismissing an employee's CEPA claim against her employer and supervisor. The decision marks an important victory for employers since CEPA claims are rarely decided in their favor. The case also teaches the valuable lesson that diligent documentation can be an employer's best defense against whistleblowing and harassment claims.

Facts

In May 2012, Tammy Russell was hired by Rutgers' associate chancellor to serve as director of the Rutgers Camden Educational Opportunity Fund (EOF) program. Funded by the state, the EOF provides scholarships and academic year and summer program access to higher education for economically or educationally disadvantaged students.

Russell was responsible for overseeing the program budget, which is submitted annually to the state. Early in her employment, she discovered that EOF funds may have been used to pay salaries for non-EOF Rutgers staff. She also complained about issues the state raised regarding the EOF reports and that the employees who replaced her EOF duties lacked experience and therefore did not complete the reports correctly. Once notified of the issues by Russell, Rutgers performed an internal investigation of its EOF program. The report concluded there was no need for further investigation.

After notifying Rutgers about the issues in the EOF program, Russell claimed she was treated differently in the workplace. She alleged that the budgeting responsibilities were taken away from her, and she was told she would no longer have access to the budget or be responsible for completing state-mandated EOF reports. She was still responsible, however, for reviewing and approving budget items and signing off on Camden's ultimate EOF budget. Although Russell also claimed she was retaliated against, she admitted that her supervisor never forced her to approve the budget or otherwise threatened her about it in any way.

Russell also had performance issues throughout her employment at Rutgers:

- Although she received "meets expectations" on her performance reviews, she had communication issues with both supervisors

AGENCY ACTION

EEOC announces increases in outreach, enforcement for 2018. The Equal Employment Opportunity Commission (EEOC) noted increases in its 2018 outreach and enforcement actions as it released its annual Performance and Accountability Report in November 2018. Highlights in the report include the launch of a nationwide online inquiry and appointment system as part of the EEOC's Public Portal, which resulted in a 30 percent increase in inquiries and over 40,000 intake interviews. The report also noted that the EEOC's outreach programs reached 398,650 individuals, providing them with information about employment discrimination and their rights and responsibilities in the workplace.

DOL, DHS propose rule for employers seeking H-2B workers. The U.S. Department of Labor (DOL) and the U.S. Department of Homeland Security (DHS) in November published a proposed rule that would modernize the recruitment requirements for employers seeking H-2B nonimmigrant workers. The intent is to make it easier for U.S. workers to find and fill those jobs. The proposed rule would require electronic advertisements to be posted on the Internet for at least 14 days. The H-2B program allows U.S. employers or agents who meet specific regulatory requirements to bring foreign nationals to the United States to fill temporary nonagricultural jobs. The DOL simultaneously proposed a similar rule for temporary labor certifications through the H-2A visa program for agricultural workers.

DOL releases wage and hour opinion letters. The DOL announced in November that it had issued four new opinion letters addressing compliance under the Fair Labor Standards Act (FLSA). The four letters, available at www.dol.gov/whd/opinion/guidance.htm, address (1) the application of FLSA Section 7(k) to nonprofit, privately owned volunteer fire departments, (2) the "reasonable relationship" between salary paid and actual earnings, (3) the application of Section 13(a)(3) to a pool management company, and (4) dual jobs and related duties under Section 3(m). An opinion letter is an official opinion by the DOL's Wage and Hour Division (WHD) on how a law applies in specific circumstances presented by the person or entity requesting the letter.

OSHA issues crane operator rule. The Occupational Safety and Health Administration (OSHA) published a final rule in November to clarify certification requirements for crane operators. OSHA said the new rule will reduce compliance burdens while maintaining safety. The final rule, with the exception of requirements on evaluation and documentation, became effective December 9, 2018. The evaluation and documentation requirements will take effect February 7, 2019. ✤

and coworkers. Employees complained she was "abrasive, harsh, and combative."

- Additionally, Rutgers documented complaints from employees about Russell's job performance and shared a memo with her about her "poor communication and program management" and failure to follow instructions regarding the completion of certain tasks.

As a result of Russell's documented poor work performance, Rutgers sent her a pretermination letter and scheduled a conference for the following day. The next day, she was terminated.

Russell sent a letter to Rutgers advising she was "fully prepared to have legal counsel represent [her] and [was] very prepared to go outside of Rutgers University regarding this case." The university investigated and found (1) no violation of its policies had occurred, and (2) there was no nexus (or connection) between Russell's alleged whistleblowing complaints and her impending termination.

Well-documented defense

To prevail under the CEPA claim, Russell had to prove four elements: (1) She reasonably believed the employer's conduct was violating a law, rule, regulation, or clear mandate of public policy, (2) she engaged in whistleblowing activity, (3) an adverse employment action was taken against her, and (4) her whistleblowing activity caused the adverse action. If an employee establishes those elements, the employer must set forth a legitimate, nonretaliatory reason for the adverse action. The employee must then provide factual reasons why the employer's proffered reason is pretextual (or an excuse for discrimination).

The trial court found that Russell's apparent "issues on the job" were the real reason for her termination. The court was persuaded by the various complaints against her, the timing of those complaints (both before and after her alleged whistleblowing charge), and the fact that her job performance did not improve even after she was informed of the deficiencies. Thus, Rutgers was entitled to summary judgment (dismissal without a trial).

The Appellate Division affirmed the trial court's decision. Although stripping an employee of her job responsibilities could constitute retaliation, the Appellate Division noted that while Russell's duties shifted, she ultimately bore the same responsibility to approve the program budget as she did prior to her complaint. Although she testified that she "perceived" her boss would make her job more difficult if she didn't approve the budget, she couldn't identify anything that the boss said or did to that effect. According to the Appellate Division, the lack of specifics didn't support Russell's claim of a retaliatory reduction in her job responsibilities.

Bottom line

Not every action that makes an employee unhappy constitutes retaliation under CEPA. This case reminds New Jersey employers, however, to document all performance issues. Your documentation will be critical in allowing a court to determine

whether a termination was caused by either retaliation or the employee's poor performance. Without sufficient documentation, a termination that is warranted can still be misconstrued by an employee and perceived as retaliatory by the courts. Here, despite performance reviews stating that Russell had "met expectations," Rutgers was able to persuade the court through written complaints in her personnel file. In the end, the university's diligent documentation when the employment issues first arose helped it to achieve a pretrial win and avoid the cost of protracted litigation.

For more information about this decision or the documentation of workplace performance issues in general, please contact Genova Burns attorneys Lauren W. Gershuny at lgershuny@genovaburns.com or Katherine E. Stuart at kstuart@genovaburns.com. ✤

PERSONNEL POLICIES

3 reasons why every New Jersey employer should update employee handbook in 2019

by Dina M. Mastellone and Allison M. Benz

2018 was a busy year with the passage of sweeping legislation affecting New Jersey employers of all sizes. Thanks to an explosion of employment litigation in the state over the past decade, employees are acutely aware of their workplace rights. Now more than ever, it's essential to have an up-to-date employee handbook so you can be armed with policies to defend against such claims. As we ring in the new year, you should examine your handbooks to update policies and implement new ones to comply with the top three new laws passed in 2018, outlined below.

Equal pay law

The Diane B. Allen Equal Pay Act amended the New Jersey Law Against Discrimination (NJLAD) to make it illegal for an employer to pay any employees who are members of NJLAD-recognized protected classes at a lower amount than others who aren't members of a protected class for "substantially similar work," unless a differential is justified by legitimate business necessity.

The NJLAD's protected classes include race, creed, sex, color, national origin, ancestry, nationality, disability, age, pregnancy or breastfeeding, marital, civil union or domestic partnership status, affectional or sexual orientation, gender identity or expression, military status, and genetic information or atypical hereditary cellular or blood traits. "Substantially similar work" is determined by a combination of the "skill, effort and responsibility" required for the position and isn't limited to employees who work within a specific geographic area or region.

Paid sick leave

The New Jersey Paid Sick Leave Act, which preempts all local sick leave laws, affects every employer in New Jersey, regardless of size. As of October 29, 2018, you must provide 40 hours of paid sick leave for full-time, part-time, casual, and seasonal employees in each benefit year. You may choose whether they will accrue the time or you'll "front-load" the maximum 40 hours of paid sick leave at the beginning of the benefit year. You also may designate the "benefit year" as any 12-month period but may not modify it without notifying the New Jersey Department of Labor and Workforce Development.

Employees covered by a collective bargaining agreement (CBA) as of October 29, 2018, aren't affected until the current CBA expires. Employees and their representatives, however, may waive the rights available under the law and address paid leave in collective bargaining.

Employees may use paid sick leave for:

- Diagnosis, care, treatment, recovery, and/or preventive care for the employee's own mental or physical illness or injury or a family member's mental or physical illness or injury;
- Absences triggered by a public health emergency declared by a public official that causes the closure of the employee's workplace or a child's school or childcare facility or requires the employee or a family member to seek care;
- Necessary absences for medical, legal, or other victim services because of domestic or sexual violence perpetrated on the employee or a family member; or
- Attendance at school conferences, meetings, or any event requested or required by a child's school administrator, teacher, or other professional staff member responsible for the child's education, or at a meeting about the child's health or disability.

Protections for nursing mothers

The NJLAD also was amended to require all New Jersey employers, regardless of size, to provide lactation breaks for nursing mothers in the workplace. You also must reasonably accommodate the nursing moms with daily break times and a suitable room or other location so they can express breast milk in private. The room must be in close proximity to the employee's working area. You aren't required to compensate an employee for the break time, however, unless she is already paid for breaks.

The NJLAD doesn't restrict the time period for lactation breaks. In addition, while the Fair Labor Standards Act (FLSA) requires employers to allow the breastfeeding accommodation for up to a year after the child's birth, the NJLAD amendment doesn't include any such restriction. It's also illegal to terminate or discriminate

against a female employee who breastfeeds or pumps milk on the job. Thus, you need to shore up your policies related to employees returning from maternity leave who require space for lactation purposes.

Bottom line

Because employment laws are ever-changing, you should conduct an annual review of your handbook and policies to ensure they're in compliance with the latest developments. Reviewing the policies with legal counsel will determine whether they should be revised and updated or thrown out and replaced with new ones. The cost is minimal compared to defending against a charge filed by the Equal Employment Opportunity Commission (EEOC) or the New Jersey Division on Civil Rights or, worse, a lawsuit.

Dina M. Mastellone and Allison M. Benz are attorneys with Genova Burns LLC in Newark, New Jersey. They can be reached at dmastellone@genovaburns.com or abenz@genovaburns.com. ✤

EMPLOYMENT CONTRACTS

Best if used by: Keep an eye out for expiration dates in arbitration agreements

by Dina M. Mastellone and David Mell

A recent New Jersey case delved into whether an arbitration provision can survive the expiration of the larger written employment agreement's one-year term. The Superior Court of New Jersey, Camden County, denied the employer's request to dismiss the former employee's gender and age discrimination complaint in favor of arbitration, finding that the arbitration provision couldn't survive.

Facts

Susan O'Keefe went to work for Edmund Optics in April 2011 as executive vice president of the supply chain. In February 2013, when she became executive vice president of operations, she and the employer signed a one-year executive employment agreement for a term that ran from February 14, 2013, through February 13, 2014.

The "term" provision stated that the agreement would not automatically renew but that O'Keefe "may remain in the employ of [Edmund Optics] subject to the terms and conditions of employment [the employer] deems appropriate . . . [and which] will be generally consistent with the terms and conditions of employment of similarly situated employees." The agreement also contained an arbitration provision by which the parties agreed to arbitrate all disputes that might arise out of O'Keefe's employment and clearly waived the right to a jury trial.

O'Keefe remained employed with Edmund Optics in the executive VP role beyond the February 13, 2014 expiration date in the agreement, until her eventual termination on August 3, 2018. She later filed a complaint alleging wrongful termination on the basis of her age and gender in violation of the New Jersey Law Against Discrimination (NJLAD).

Edmund Optics asked the court to dismiss the complaint, arguing the arbitration provision survived the agreement's expiration and that it would defy logic to allow O'Keefe to continue her employment with the company on less favorable terms after the expiration date passed. In opposing the request, O'Keefe noted that other clauses explicitly survived the agreement's expiration, such as the restrictive covenants clause, but that the arbitration clause did not.

Court's decision

The trial court agreed with O'Keefe and found the arbitration provision expired along with the end of the agreement, noting her circumstances were no different than a hypothetical scenario in which she had left employment with Edmund Optics on February 13, 2014, and returned before being terminated.

In such a scenario, the court stated there would be "no doubt that the mandatory arbitration clause would be unenforceable." The court also found that "as a venue, this court is no more or less favorable to [Edmund Optics] than an arbitration venue." Therefore, given the absence of a valid, current agreement between the parties to arbitrate, the court denied the company's request to dismiss. *Susan L. O'Keefe v. Edmund Optics, Inc.*

Bottom line

Recent New Jersey court opinions make clear that an arbitration agreement's enforceability depends on (1) the clarity of its plain language and (2) the rights the employee and the employer have agreed to waive. You shouldn't assume that the bare existence of an arbitration provision in an employment agreement will be enough to compel arbitration. The *Edmund Optics* opinion reaffirms that you must ensure a mandatory arbitration clause will survive beyond the end a written employment agreement's term. Review the matter with legal counsel to ensure the arbitration provision isn't limited to disputes between the parties occurring only during the term of the written agreement.

For more information on what your company can do to ensure its arbitration agreement will be enforceable, please contact John C. Petrella, chair of Genova Burns' Employment Litigation Practice Group, at jpetrella@genovaburns.com, or Dina M. Mastellone, chair of the firm's Human Resources Practice Group, at dmastellone@genovaburns.com, or 973-533-0777. David Mell is a 2021 J.D. candidate. ✤

TERMINATION

Shareholder status doesn't undo employee's at-will arrangement, NJ court rules

by Michael K. Fortunato

The New Jersey Appellate Division recently rejected a shareholder's argument that she was entitled to a reasonable expectation of continued employment based on the terms of her stock agreement and therefore was not employed "at will." When accepting the stock, the shareholder signed an agreement specifically stating that her employment at the company remained at will. The case should remind you of the importance of using clear and consistent language in all agreements entered into with your employees—regardless of employment or ownership status—to confirm their at-will status.

Facts

Metro Commercial Management, a real estate management company, hired Van Istendal as an accounting employee in 1993, the year of its founding. Van Istendal was hired at will, thus having no reasonable expectation of continued employment and allowing Metro to terminate her at any time and for any reason that wasn't contrary to law or public policy.

In 2001, after Van Istendal had been with Metro for eight years, the company promoted her to chief financial officer (CFO). With the promotion, she received 12 percent of the company's stock. Despite giving up this significant stake in the company, Metro protected itself by requiring the new CFO to sign a stock purchase and transfer restriction agreement. The agreement specified, in no uncertain terms, that:

- The promotion and the accompanying stock grant did not alter Van Istendal's status as an at-will employee. Indeed, the agreement reiterated she could be terminated at any time and for any reason.

WORKPLACE TRENDS

Turnover hits all-time high. Research from Salary.com indicates that total workplace turnover in the United States hit an all-time high in 2018, reaching 19.3%. That's nearly a full percentage point from 2017 and more than 3.5% since 2014. The report contains data from nearly 25,000 participating organizations of varying sizes in the United States. By industry, hospitality (31.8%), health care (20.4%), and manufacturing and distribution (20%) had the highest rates of total turnover. Utilities (10.3%), insurance (12.8%), and banking and finance (16.7%) had the lowest. By area of the country, the South Central region (20.4%) and the West (20.3%) had the highest rates of total turnover. The Northeast (17.3%) had the lowest rate of total turnover in the country.

Survey finds workers comfortable conducting job search at work. A survey from staffing firm Accountemps has found that 78% of workers surveyed said they would feel at least somewhat comfortable looking for a new job while they're with their present company. More than six in 10 respondents (64%) indicated they would likely conduct search activities from work. The survey found that professionals ages 18 to 34 are the most open to conducting job search activities at work (72%), compared to those ages 35 to 54 (63%) and 55 and older (46%). Also, the research showed men are more likely to conduct job search activities from the workplace (72%) than women (55%). "Looking for a new opportunity during business hours can be risky and potentially threaten current job security," cautions Michael Steinitz, executive director of Accountemps. "While it's OK to pursue new opportunities while employed, a search should never interfere with your current job." He suggests scheduling interviews outside of work hours.

Study looks at managers' ability to communicate when heat is on. A manager's ability or inability to communicate during high-stakes, high-stress situations directly affects team performance, according to a study from VitalSmarts, a leadership training company. Managers who clam up or blow up under pressure have teams with low morale that are more likely to miss deadlines, budgets, and quality standards, the researchers found. According to a survey of 1,334 people, at least one out of every three managers can't handle high-pressure situations. Among the findings: 53% of managers are more closed-minded and controlling than open and curious, 45% are more upset and emotional than calm and in control, 45% ignore or reject rather than listen or seek to understand, 43% are more angry than cool and collected, 37% avoid or sidestep rather than being direct and unambiguous, and 30% are more devious and deceitful than candid and honest. ✤

UNION ACTIVITY

Unions lose right-to-work ruling in Kentucky. The Kentucky Supreme Court in November affirmed a previous court ruling that upheld the state's right-to-work law. The 4-3 decision sparked criticism from union interests. "We agree with the justices who dissented," Bill Londrigan, president of the Kentucky State AFL-CIO, was quoted as saying in the *Louisville Courier-Journal*. "This law applies only to labor unions. It's designed to discriminate against unions to choke off the financial resources we need because we're required to provide services to all workers in the bargaining unit." The state legislature passed the right-to-work law in 2017.

Mine workers assail West Virginia black lung ruling. The United Mine Workers of America (UMWA) spoke out against a November ruling of the West Virginia Supreme Court on black lung benefits, calling it a travesty. The ruling, which "limits the ability of miners who are suffering from black lung to file workers' compensation claims[,] is a travesty," UMWA President Cecil E. Roberts said. "The new majority on the court threw out decades of settled law and clear legislative intent in an outrageous ruling that demonstrates a callous disregard for human suffering, especially at a time when black lung is on the rise among miners of all ages."

NEA speaks out against Title IX proposal. The National Education Association (NEA) voiced its opposition to a proposal from the U.S. Department of Education (DOE) released in November, saying it would weaken protections for sexual assault and harassment survivors in K-12 schools as well as colleges and universities. "Title IX is intended to ensure that all students have access to educational opportunities and that sex discrimination—including sexual violence and harassment—at educational institutions violates federal law, NEA President Lily Eskelsen Garcia said. "But [DOE Secretary] Betsy DeVos seeks to turn Title IX on its head."

SEIU calls asylum proclamation brutal violation. Rocio Saenz, iAmerica Action president and international executive vice president of the Service Employees International Union (SEIU), in November criticized President Donald Trump's proclamation and new rule making migrants ineligible to seek asylum if they cross the border illegally. Calling the action an effort to ignite fear and racial panic, Saenz said Trump should support families who are fleeing to protect their children from violence. "This effort to eviscerate asylum protections and send people back to their death is a shameful, brutal violation of American law, American values, and international treaties the U.S. signed decades ago." ✤

- If she was no longer employed by Metro, she would sell the stock back to its majority owner or the company itself at a fair-market value.

Van Istendal's termination

In September 2015, Metro fired Van Istendal. Later that year, she filed suit against the company seeking to be reinstated as CFO. She claimed she should be protected as an oppressed minority shareholder. The trial court dismissed her suit, however, based on the plain language of the agreement that set forth her at-will status.

In April 2016, Metro sued to compel the sale of Van Istendal's company stock, and she reasserted her counterclaim seeking reinstatement. She claimed the stock created a reasonable expectation of continued employment and that her at-will status was "irrelevant" in light of her position as a minority shareholder. She also argued that her termination without cause was improper and cited 13 years of positive performance reviews.

To support her claim, Van Istendal relied on cases such as *Muellenberg v. Bikon Corp.*, in which the New Jersey Supreme Court recognized that employees who acquire a minority share in a closely held corporation often do so for the assurance of continued employment in their managerial positions. Indeed, the *Muellenberg* court held that, in some circumstances, the termination of a minority shareholder's employment constitutes oppression of that individual.

Courts' decision

Both the trial court and the Appellate Division, however, rejected Van Istendal's counterclaim. The trial court found the stock purchase agreement was "conclusive" in stating she remained an at-will employee. It was a stipulated understanding between the parties about her status. The agreement also unambiguously stated she could be let go at any time. Thus, she could have no reasonable expectation of continued employment. The Appellate Division affirmed, also relying on the agreement's plain language.

Both courts refused to invoke *Muellenberg* because it didn't consider at-will employment status. They also weren't swayed by certain out-of-state cases cited by Van Istendal because the employees in those matters didn't sign employment agreements. Simply put, the language in Metro's stock agreement with Van Istendal carried the day. *Metro Commercial Management v. Van Istendal.*

Bottom line

Always have clear and consistent agreements from which a court may discern your employees' rights and expectations. That is true for both new hires and promotions—even when, as in this case, the employee receives company stock.

When Van Istendal was promoted to CFO in 2001, Metro secured a signed agreement reiterating that, despite the stock grant, she remained an employee at will, fireable at any time and for any reason. As a result, the employer could ultimately

pursue its rights under the agreement—namely, the stock repurchase—without fear of the former employee prevailing on her counterclaim. In addition to being clear, the stock agreement was also consistent. It not only stated that Van Istendal could be terminated, but also established a stock buyback mechanism preparing for that very eventuality.

In a nutshell, you should heed the lesson in *Metro* and use agreements that properly define your employment expectations. Moreover, even employees who have equity ownership aren't guaranteed continued employment if they've agreed in writing that they may be terminated for any reason whatsoever.

For more information about employment at will and terminations, please contact Michael K. Fortunato, an associate in Genova Burns' commercial litigation practice group at mfortunato@genovaburns.com or (973) 646-3284. ✤

WORKPLACE ISSUES

Earning employee trust can reduce your legal liabilities

"Trust" is a slippery concept. What does it mean for your employees to "trust" you or "distrust" you? And why should you care?

Tough answers to tough questions

Those are really big questions, and the answers—while important—aren't simple. Employers may not even know they have a problem with employee trust. Employees aren't likely to come out and say so because they're concerned there will be repercussions. Instead, a lack of trust in your workforce is more likely to show up as something else, such as poor performance, disengagement, absenteeism, lack of productivity, turnover, and so on.

Even less apparent are the potential legal issues that can arise for employers whose employees don't trust them. Here's a quick overview of just a few.

Disloyalty. Distrustful employees tend to be disloyal employees, which makes them more likely do things that are against the company's interests. That could mean anything from the benign (finding a job elsewhere) to the embarrassing (dissing you on social media) to the illegal (stealing clients or trade secrets).

Underground problems. Distrustful employees also are less likely to come to you with their concerns, mistakes, and grievances. This can lead to a variety of legal concerns, including unreported harassment, other lingering or escalating workplace conflicts, unsafe working conditions, and other noncompliant practices.

Litigation and claims. The longer a situation described in the previous paragraph is allowed to persist, the more likely someone will eventually seek out a lawyer or complain to the appropriate governmental agency. These types of problems often can be avoided if employees trust you enough to report the situation before things get ugly. Distrustful employees may also be more likely to sue over relatively minor perceived infractions.

Union activity. A pervasive lack of trust by employees for company leadership and management is one of the biggest contributing factors to unionization efforts.

Minimizing risk by building employee trust

It's tempting for many company leaders to think of trust as a touchy-feely HR concept rather than a business imperative. But the truth is that regardless of the problem you're having with employees, at least part of the cause is they don't trust you (HR), their supervisor, company leadership, or all three.

The first step in improving employee trust is to recognize you have a problem. In general, the big risk factors include a leadership team that is disconnected from the workforce; poor communication and lack of transparency; unempowered, fearful, or discontented employees; low productivity; and high turnover.

The next step is to undertake the slow process of rebuilding trust. Here are some of the biggest things you can do:

(1) **Cultivate healthy conflicts.** Employees need to be able to disagree without being disagreeable. Our current political climate is a great example of how hard that is for most people. But an artificial peacefulness—where everyone just goes along because they fear conflict—may be even worse. Healthy disagreement is fundamentally necessary to improvement and innovation. This is a difficult workforce skill to develop and may require a substantial investment of time and training.

(2) **Be honest, and reward honesty.** Rather than punishing people for mistakes they bring to your attention, reward them for being honest and work with them to fix the problem. Similarly, if you ask employees to perform self-evaluations, don't capitalize on their honest reflections as an opportunity to criticize them. You will never get another honest response from them if you do.

(3) **Involve employees in decision making.** Let's face it, the C-suite tends to think very differently than the rest of us mere mortals. They can make business decisions without fully thinking through the ramifications. By involving lower-level employees in the planning process, you're more likely to identify possible problems and earn their buy-in to the ultimate decision.

TRAINING CALENDAR

To be added.

(4) **Hold everyone equally accountable.** One thing that has become very apparent during the #MeToo movement is that many employers have a hard time holding their highest performers accountable for misbehavior. If your organization still has a "circle the wagons" mentality when it comes to workplace complaints, it needs to stop now. The higher up the accused, the higher your potential liability could be.

(5) **Don't play favorites.** Acknowledge everyone's contributions, not just those of your most flashy or favorite employees.

(6) **Be available.** If you pay attention to employees only when something goes wrong, they could develop a sense of paranoia.

(7) **Keep your promises.** This can mean anything from following through on that raise you promised to consistently enforcing and applying your policies and procedures.

(8) **Pay your employees fairly.** Establish a competitive compensation structure for your employees, and stick with it. Don't hire someone for less just because they didn't ask for more. Nothing breeds resentment and distrust more than that. ✤

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Editorial inquiries should be directed to Dina M. Mastellone at Genova Burns LLC, 494 Broad Street, Newark, NJ 07102, 732-842-2732, fax 732-758-6597, dmastellone@genovaburns.com.

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