Take Steps to Avoid Costly Litigation

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"The first thing we do, let's kill all the lawyers." — William Shakespeare, Henry the Sixth

How many business people have privately fantasized about Shakespeare's suggestion? The U.S. is the most litigious society in the world, and U.S. corporations are at the epicenter of the litigation craze. A lawsuit-obsessed U.S. society is not just media myth. Statistics bear it out. A study in 2006 revealed that an average about one lawsuit is filed per every 17 people per year in the U.S. And lawsuits are trending upward, particularly those directed at corporations. Some categories of employment discrimination and wrongful termination claims have grown explosively in the last few decades. Some suits are rational, others beyond the looking glass.

Lesann McEnroe, a Microsoft employee, claimed she was unable to come to the office because she suffered from anxiety, panic attacks, post-traumatic stress disorder and agoraphobia. An understanding Microsoft allowed her to work entirely from home.

In keeping with the adage that "no good deed goes unpunished," McEnroe promptly sued when she was let go by a mega bank. Her manager failed to sufficiently document what, in her opinion, he'd done wrong. When the bank challenged her unemployment claim, his ex-manager's hands were heartily slapped by a state investigator for doing a dismal job of supporting her case.

The bank lost, and my friend is contemplating a lawsuit for wrongful termination.

Third, carefully consider whom you hire. In this electronic age, it shocks me how little beyond a cursory background check is conducted by many employers. Some employees pore over employee handbooks and manuals, save every manager's email, privately document every idle word spoken on the job. When they find the least weakness, they sue. They bounce from employer to employer, filing and settling suits along the way. A nice side income.

They will cost your business in time, legal fees bad publicity. What was the last time you checked out a prospective employee's social media? Or plugged a prospective employee's name into the docket history of your state's court database? These are matters of public record.

You might discover that "diamond in the rough" has sued his last five employers.

The stakes are high, the task difficult, but minimizing expensive employment litigation is not beyond the wherewithal of employers. It requires a common sense approach and a bit of diligence. And diligence on the front end of the employment process beats scrambling on the back end.

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