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Q&A

Employment Handbook Helpful On Many Levels

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► **Employers also have to be wary for problems and take investigative and corrective actions even if there is no complaint.**

Q&A talks with Christopher Brown, a partner in the Westport law firm of Begos & Horgan, LLP. He works primarily on cases involving employment law and mortgage foreclosure issues.

Q: The Hartford Distributors killings involved a man who made claims of discrimination against the company, which the company said it had no knowledge of. Is a company at risk for employment claims it doesn't know about?

A: The Hartford Distributors incident is extreme, and hopefully unlikely to be repeated. I don't think Hartford Distributors can be liable to the families of the murder victims based on the killer's employment complaints. That being said, the best protection against employment liability is instituting a formal complaint process. This gives employees a procedure for presenting their claims, and specifies the employer's obligations to investigate the claims as well as outlining the investigation procedures and the possible outcomes of the investigation. The process needs to be written and distributed to all employees. The more detailed the process and the more the employer reinforces its availability to the employees, the greater the protection for the employer if an employee does not take advantage of it.

Q: Once this kind of policy is in place, has the company done all it needs to do to protect itself from claims of discrimination?

A: No. Employers also have to be wary for problems and take investigative and corrective actions even if there is no complaint. This is because employers can be liable if

they knew, or should have known, of a problem. The definition of "should have known" depends on the circumstances so employers should be guided by the "better safe than sorry" principle.

Q: What's the most prevalent mistake you see in your practice that businesses make when it comes to dealing with employees? What's your advice for dealing with that mistake?

A: Not having an employment manual at all or having one that doesn't include a formal complaint process. A start-up where the owners are the only employees might be able to safely defer the expense. But the manual should be in place by the time the business enters what we call its "adolescence," when the business has a relatively reliable cash flow which it will put to use by hiring employees. A side benefit to having an employee handbook for a young company is that it lends an air of credibility, and stability, which can help in the employment process.

Q: From your perspective, what is employment law like in Connecticut right now? Favored toward the employee? Equal balance?

A: I don't think the law itself favors one over the other. The fact finder — whether it is a governmental agency, judge or jury — may view the facts and circumstances in a light that favors one or the other but that's in hindsight — after whatever happened. The best course for employers is to be as proactive as possible in preventing problems and the best course for employees is to speak up about problems early and often so that the employer can take corrective action. ■