

Avoiding Litigation Through Proper Employment Practices

Marlene Allen

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Over the last 23 years, I have seen unsuspecting individuals and organizations come under attack for deeds they never thought could turn into vicious and expensive litigation. Even though I make my living handling litigation, it has always been my desire to help my clients avoid situations that could result in a lawsuit. Even though you cannot prevent someone from filing a lawsuit against you, it is wise to conduct yourself in a way that builds defenses you might need to exonerate yourself if you do get sued.

Your mother was right: an ounce of prevention truly is worth a pound of cure. If one thing stands out among all others in preventing problems, it is thinking ahead to the potential consequences of our decisions. For example, if an employee you are about to hire sued a prior employer, you should investigate the prior action to analyze whether that action had any merit, or whether the person is simply litigious. Thorough hiring practices, which include background checks and contacting references, may seem time consuming – but these practices can avoid much bigger drains on your resources, such as wrongful termination claims and other legal problems.

One of your biggest tools in avoiding problems is to document everything. If you can show (in writing) that you have taken appropriate steps in a particular situation, you will have an advantage over your adversary. Proper documentation practices are essential to a well-run organization.

Here are five guidelines to consider when developing your employment practices:

1. Keep apprised of current employment laws.
2. Develop and follow well defined hiring practices based on current law.
3. Provide training for everyone, including those doing the hiring/firing, and for the employees and volunteers.
4. Hire smart: Learn as much as you can about your potential employee or volunteer, and don't ignore warning signs.
5. DOCUMENT EVERYTHING!!!

Because even the best practices cannot avoid the possibility of a lawsuit, it is wise to maintain insurance coverage for your organization and for the individuals working and volunteering their time. Even though every organization is trying to cut corners in these challenging economic times, it is imperative to keep sufficient insurance coverage in force at all times.

Finally, a lawyer - like a mechanic - is cheaper if you use him or her up front. Obtaining quality legal advice BEFORE a problem arises is the best way to avoid being sued, or at least to develop the best possible defense.