There Must Be Fifty Ways to Lose a Lawsuit

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“There Must Be Fifty Ways To Lose a Lawsuit”

Paul, Simon, and Loophole
Family and Medical Leave Act

Litigation Losers

1. Understanding Reasons for Leave and “Serious Health Conditions”

2. Notice of FMLA Rights

3. Right to Reinstatement
Fair Labor Standards Act

Litigation Losers

1. Calculations of Work Time

2. Misdesignation of Employees as Exempt

3. Improper Deductions from Exempt Employees
Immigration Liability

Litigation Losers

1. Inaccurate/Incomplete I-9 Forms

2. Pre-Employment Citizenship Inquiries

3. Inaccurate Reporting to a Government Regarding Status of Foreign Students (Post Sept 11th Focus)
Americans with Disability Act

Litigation Losers

- 1. Understanding Coverage under ADA
- 2. Failure to Engage in the Interactive Process
- 3. Failure to Make Reasonable Accommodations
Age Discrimination in Employment Act

Litigation Losers

1. Inaccurate Performance Appraisals


3. Waiver Language and Waiting Periods
Title VII: Race Discrimination

Litigation Losers

- 1. Hiring To Create Favorable Numbers
- 2. Avoid Confrontation By Providing Enhanced Performance Appraisals
- 3. Racial Harassment
Title VII: Gender Discrimination

Litigation Losers

- 1. Failure to Train and Document Training
- 2. Gender Harassment/ Sexual Harassment
- 3. Benefits/ Prescription Drug Issues
Title VII: Religious Discrimination

- Litigation Losers

  1. Inconsistent Provision of Leaves of Absence
  2. Second-Guessing Appropriateness of Religion or Religious Beliefs
  3. Denial of Accommodation
Retaliation

Litigation Losers

1. Focus on the Spurious Nature of Employee Demand/Complaint

2. React Emotionally to Employee Conduct/Statement

3. Inadequately Document Employee Conduct
Hiring

Litigation Losers

1. Solicitation of Inappropriate Information

2. Failure to Complete and Document Pre-Employment History

3. Hiring to Achieve Quotas
Performance Evaluation

Litigation Losers

1. Limit Evaluator’s Rating Choices

2. Fail to Hold Evaluators Responsible for Quality of Evaluations

3. Dramatic Changes in Individual’s Performance Evaluations
Employee Termination

Litigation Losers

1. Absence of Mandatory Pre-Termination Review

2. Inconsistent Application of Work Rules

3. Absence of Last Chance Provision