

Chapter 1 : Employee Lawsuits: How You Can Prevent Them!

By upholding your legal obligations, consistently documenting an employee's performance, addressing complaints promptly, and maintaining open lines of communication with your employees, you should be able to avoid most employee lawsuits.

Nationality Disability These types of suits are often filed after an employee is passed up for a promotion or terminated due to poor performance. From the hiring process right through termination you cannot discriminate based on any of the factors above. **Harassment** Harassment can come from a supervisor, a boss, or even another worker. In every case the business can be held at least partially liable for the damages. However, harassment can be non-sexual as well. **Bullying** in the workplace is another example of a type of harassment that could lead to a lawsuit. Next, do not tolerate harassment of any kind. If harassment claims are made, investigate every instance thoroughly and refer to your existing harassment policies for appropriate punishments. Never dismiss harassment claims. **Injury** Injuries are common at work. They are also a common source of lawsuits against employers. While there is some basis for many personal injury lawsuits, the key component of any such successful litigation is negligence. The plaintiff must prove that the employer knew of a dangerous situation and that they failed to do anything to prevent an accident such as repairing a faulty railing or safety shutoff. Follow all applicable guidelines including OSHA regulations, inspect all equipment on a regular basis, ensure all of your safety equipment fire extinguishers, eyewash stations etc. **Wrongful Termination** Wrongful termination lawsuits are generally filed when an employee feels they have been fired for an inappropriate reason. You can avoid wrongful termination lawsuits by keeping accurate records. These should include employee performance reports if any , copies of all contractual documentation, and copies of any sort of punitive measures taken against the employee. These documents will come in handy when you have to prove that you had a good reason for the termination. In essence, if you can soften the blow, the employee will be less likely to be vindictive and file a punitive lawsuit. **Settling May Not Be Your Best Option** When many businesses both large and small are faced with any sort of lawsuit, their first knee-jerk reaction is almost always to settle out of court. This is generally viewed as a cost-savings measure and can sometimes save face. However, settling at least in some sense is admitting culpability. A report in the New York Times shows that while settling is often an attractive option for small businesses, it may not always be the best option. The company has faced three wrongful termination lawsuits over the course of its growth. The first two settled out of court and cost him untold and undisclosed amounts but the third, he fought. Herold kept records of conversations he had both digitally through email and over the phone with his sales manager. Herold accepted this bid on the condition that the manager and his lawyer had to turn over a written apology simply to expedite the process and curb his legal fees. The case mentioned above is one example that shows that settling especially before going to trial might not always be the best option for your business. Matt believes in the power of online platforms to change antiquated ways of life and founded UpCounsel to make legal services efficiently accessible. He is responsible for our overall vision and growth of the UpCounsel platform. Before founding UpCounsel, Matt practiced as a startup and business attorney.

Chapter 2 : The Most Common Employee Lawsuits and How to Avoid Them

That's why the best way to win a lawsuit is to avoid it altogether and HR professionals can help by ensuring the company's processes are perceived as fair. Help Avoid Employee Lawsuits by Being Fair.

Running a close second on the list was maintaining HR compliance, specifically developing, communicating and enforcing policies and procedures across the organization. Why do managing employee policies create such a challenge for HR? For starters, the vast number of rules HR must know and maintain is overwhelming, and they often lack the resources to keep up with constantly changing updates. But the 1 reason people management compliance is so challenging for employers: And in the event of employee litigation, a comprehensive and updated handbook can greatly minimize your risk. Ask these questions about your employee handbook: Is each employee presented with a company handbook that outlines employment practices and policies? Does your handbook clearly define conduct and nondiscrimination policies as well as terms and conditions of employment? Does your handbook ensure compliance with federal and state laws? Does it outline compensation and benefit information including medical offerings, time off, work from home policies and telecommuting policies? Does an HR professional or legal counsel reviews your employee handbook annually? Job Descriptions Why are job descriptions important? They set specific expectations for employee performance and offer a guidepost to measure individual success. Job descriptions also are used throughout the recruiting process to identify a certain skill set candidates must possess to apply for a position. Questions you should ask: Is each job description is reviewed and updated, at minimum, annually? Performance Management Accurate performance records are essential in the event an employee is terminated due to poor performance. Affected employees should be placed on a performance plan that defines required areas for improvement and offers a time frame to achieve results. If performance issues are determined, do you clearly document problem areas and institute a performance improvement plan? Does your performance improvement plan clearly state expectation and goals, identify the necessary steps to improve performance, provide training to employee on the plan and include a final warning if performance does not improve? Discipline Accurately documenting and tracking disciplinary violations is essential in the event an employee is terminated. Without proper documentation, a terminated employee can pursue legal action against the employer. Ask these questions about your disciplinary program: Are disciplinary policies and procedures clearly defined, written and communicated to employees via the company handbook? Departing employees receive a written summary of accrued benefits and notices regarding post-termination benefits, including compensation for vacation and sick time, continuation of health coverage, severance pay and k plan information.

Chapter 3 : How to Help Avoid Employee Lawsuits (with Pictures) - wikiHow

Employees do not file lawsuits because the law was broken they file lawsuits because they feel they were treated like garbage. Treat your employees with dignity, respect, and fairness, and in my opinion, you'll avoid almost all lawsuits even if you've inadvertently broken the law."

Select Page Promote a Desirable Workplace and Job Satisfaction Each week every employee in your Company completes a brief, and very important, questionnaire. If the employee has no concerns to report, it takes less than 60 seconds to complete. This allows the manager to immediately address and diffuse the issue and prevent it from going any further. Automatic Reminders for Employees to Submit Reports The Glasshouse Report automatically sends a weekly reminder email to each employee, informing them that their report is due. The designated manager is notified if an employee has not reported, allowing management to follow up until the report is submitted. The risk of employee lawsuits is dramatically reduced. Encrypted Paper Trail The Glasshouse Report stores all records in an encrypted format, making a digital paper trail of reports available if and when needed. This digital paper trail is invaluable if a workplace conflict should arise. Management can access this information for review at any time. All reports on all past and present employees are kept in encrypted servers indefinitely. Why Employees love the software Breathes fresh air into the workplace by eliminating misconduct, and creating a more productive, positive and uplifting work environment. Why Companies love the software Alerts Management immediately of all workplace issues. Maintains a secure, long-term digital paper trail of all reports, on all employees, past and present. What the software does It provides a great platform that our employees can use to report any incidents that occurred as well as concerns that they may have. The user interface is simple and easy to use for both the employee and employer side. Give us a call at Thank you! The Glasshouse Report Team.

Chapter 4 : - Employer Reports - 21 Ways to Prevent Employee Lawsuits

Avoiding employee lawsuits is a prime objective of any business, and by taking prudent steps, initiating uniform hiring and management policies, and creating an employee evaluation system, it's possible to help lower the number of employee lawsuits your business faces in the future.

Bad management style might cost your business as much as its entire annual revenue! A lawsuit will also affect your reputation. Many people are hesitant to do business with a company that was involved in an employment lawsuit. Nobody wants to be associated with an organization that had to deal with a lawsuit that involved some discrimination charge. Lawsuits are expensive, and you could wind up spending tens of thousands of dollars in legal fees. And once everything is over, you might be forced to raise your pricing and put your business at a competitive disadvantage. In other words, the consequences of a lawsuit are vast and extend way beyond the initial conflict, seriously hurting your business in the process. Here are 8 mistakes managers make that might lead to employee lawsuits and how to avoid them. Carelessness in documentation Most discrimination lawsuits are based on circumstantial evidence. That type of proof may be compelling, and employees can use it in court to win the case against a manager. Employees who sue employers often use documents, in particular, email correspondence, to show the jury that manager was acting toward them with a discriminatory intent. If an employee is causing problems, keep calm and try to get to the bottom of the problem without communicating your frustration to them – they might use your words against you later on. Lack of attention to employee complaints Managers may hear complaints that involve bullying, harassment, or other types of workplace misconduct, and not do anything about them. If you do that, you are doing the groundwork for a lawsuit. Every employee complaint should be documented and investigated to check whether requires further action. Every organization should have an appropriate complaint procedure to help managers manage that process. This is a discrimination lawsuit material. You never know what happened to employee – they could be ill, pregnant, or in another protected class. There could be some legitimate reason why your employee is performing the way they are. Not following company procedures Business rules are there for a reason. They not only hold the employees accountable but also the managers. As a manager, you should be aware of the personnel policies of your company and make sure that everything happening in your team or department is organized according to these rules. Make sure to review the policy on a regular basis and double check that you have it right before taking a disciplinary action against an employee for not following rules. No anti-harassment policy Smart employers have well-documented anti-harassment policies that in reality help to deal with harassment claims. Managers should ensure that such a policy exists at their organization and be aware of its content. Compromising confidential information Another mistake many managers make is unveiling confidential information, such as formulas, strategies, company IP, or customer lists to others. Make sure that you know how to handle sensitive information at your company and follow the procedure yourself before implementing it in your team or department. If you spot an employee sharing negative comments about the company on social media, you might be tempted to react. But firing someone for complaining about working conditions in public is material for a lawsuit. In fact, the National Labor Relations Act forbids companies from firing employees in retaliation for engaging in that type of protected activity. By looking at employees social media, managers are violating their privacy rights, and that could pose a danger to the entire organization. No track of employee hours worked Another serious problem is that many managers fail to keep proper track of the hours employees worked. Lucy Taylor is an avid blogger who enjoys sharing her tips and suggestions with her online readers. Working as a legal expert at LY Lawyers , Lucy often helps people dealing with legal problems.

Chapter 5 : Prevent Employee Lawsuits Sexual Harassment Discrimination Software

In employment discrimination lawsuits, the business always loses. Consequently, creating a work culture and environment for employees that encourages diversity and discourages employment discrimination in any form is critical for your success.

By Burton Goldfield Below, we address the most common forms of employee lawsuits and spell out tips to help you maintain a safe working environment and avoid becoming embroiled in the court system. Discrimination Discrimination claims are the most common form of employee lawsuit. Retaliation Retaliation often occurs in the context of a discharge. Filing a claim of discrimination Participating in an investigation of such a claim Refusing to commit an illegal act, such as refusing to lie during an investigation Retaliation can also occur without a discharge. Indeed, almost any adverse action to an employee involved in a claim is illegal. The harasser can be anyone that is associated with the workplace, including full-time employees or contractors. Prohibits discrimination due to race, color, religion, sex and national original. It also includes the Pregnancy Discrimination Act PDA , which forbids discrimination based on pregnancy, childbirth or related medical conditions. Prohibits discrimination against qualified employees or job applicants due to a disability, association with someone disabled or because the employer sees an employee as disabled, even if he or she actually is not. Note that there are also many state laws regarding employment discrimination. Although some are similar to federal laws, they can often afford additional protections for employees. Take proactive steps to eliminate unlawful bias in decisions and processes and eliminate harassment. Here are some specific tips: Eliminate considerations that have nothing to do with competence. Also, make sure your hiring documents are legal and that your interviewers are aware of what can and cannot be asked of a job candidate. Make clear what is appropriate activity by enacting a company-wide program that will educate everyone on what is acceptable and unacceptable workplace behavior. Also, create an environment in which employees feel free to raise concerns regarding possible discriminatory behavior and are confident that those concerns will be addressed. Take appropriate steps to prevent harassment. Establish an effective complaint or grievance process, provide anti-harassment training to managers and employees, and take immediate and appropriate action when an employee complains. As with hiring, eliminate considerations that have nothing to do with competence. Also, make sure your communications and documentation are appropriate and clear. Assume that whatever you say can and will be used against you. Keep up on the latest changes in employment law. How does your company work to prevent harassment or discrimination in the workplace? Tell us in the comments.

Chapter 6 : 5 Ways to Avoid Wage and Hour Lawsuits

A California employee handbook is a useful tool to help prevent employee lawsuits. In this day of rampant employee litigation no company should be without one, especially in California. Besides establishing consistency and uniformity with company rules, it is a great way to notify your employees of necessary laws and confirm "at-will."

Here are 5 simple and inexpensive steps companies can take now to avoid being sued. Getty Images No business owner ever plans on being sued, especially by employees. In full disclosure, Jen has been the outsourced HR Director for my first company Information Experts for almost 15 years. Create strong relationships with employees. Treat employees with kindness and respect Develop trusting relationships with employees in which they know that you care about them 2. Handle employee issues in a timely manner. If an employee expresses a concern; discuss it with them, collaborate and brainstorm solutions with them, and implement needed actions. If an employee makes a complaint, investigate it and document your notes and findings. Follow-up with the employee on the resolution. Take a progressive approach to performance issues and document. If an employee is having a performance issue, the key is to address it immediately, work with the employee to improve it, and document the actions taken. Start with coaching and then if the performance issue continues move to written warnings and probation. Most employees will improve if they know there is an issue. If there are red flags, follow their advice on how to navigate them. Ensure you comply with the Federal, state, and local employment laws applicable to your business. Companies should update and communicate their policies and handbooks at least annually, and should require employees to acknowledge receipt of the information. Immediately call your attorney and insurance broker assuming you have Employment Practices Liability Insurance to discuss the charges and their recommended next steps. Examples of High Profile Employee Lawsuits: This employee blew the whistle when he discovered that a doctor was purchasing a generic version of a drug from Canada for half of what Bayer charged and then obtaining Medicaid reimbursement from the U. Peggy Young had requested job accommodations when she became unable to lift heavy packages as a result of her pregnancy. The company refused and instead put her on unpaid leave. In her lawsuit, she said that UPS violated laws stating that pregnant women should be "treated the same" in employment practices as "other persons not so affected but similar in their ability or inability to work. These are just a few examples of the protections available to employees who believe their rights have been compromised. The most important steps employers can take to avoid employee lawsuits are to stay informed, and to also inform their employees. Proactive, transparent communication goes a long way in preventing potentially disastrous HR situations. Dec 7, Like this column?

Chapter 7 : Avoid employee lawsuits by being aware of these 8 managerial mistakes - LEADERS IN HEEL

Stay One Step Ahead With This Checklist. Human resources leaders we've interviewed and surveyed about the current state of HR and human capital management identified finding and retaining employees as their top challenge.

Monday, January 4, at As if the risk of a jury verdict is not bad enough, Inc. The good news is you can reduce your exposure in future potential employee lawsuits by adopting preventative legal strategies today. A list of 21 steps you can take to ensure you comply with at-will employment law basics and to protect your business are included in this report. The Basics Discharged employees go to a lawyer because they believe they have been treated unfairly. The lawyer then determines whether the former employee has a claim that falls within one or more of a number of legal theories. A successful preventative strategy will include developing policies and procedures so that 1 terminated employees and any jury will feel they have been treated fairly and 2 your organization can avoid violating the legal theories used in most discharge cases. The general rule in the United States is that either the employee or the employer can terminate the employment relationship at any time, with or without notice and with or without cause. They have created three exceptions to the general employment-at-will rule: Courts look to brochures, employee manuals, job interviews, offer letters, performance evaluations and informal representations by managers and supervisors to determine whether there is a written, oral or implied contract. The just cause standard is far more difficult for employers to meet than the employment-at-will standard. Most companies prefer to adopt preventative strategies that attempt to preserve at-will employment. The general employment-at-will rule does not apply if you have written employment contracts or a union contract with your employees. Instead, the terms of the employment agreement, the terms of the union contract or the just cause standard will control. For this and other reasons, many firms include disclaimers in employee manuals that the manual is not a contract. Finally you cannot fire employees contrary to public policy. These steps do not apply if you have a union contract. Written employment contracts should be reviewed by an experienced employment lawyer. Steps for communicating with your employees and conducting performance evaluations are also discussed. Do not make any statement limiting your ability to terminate employees. Do not promise length of employment or continued employment. Persons hired for a particular period of time cannot be terminated before the time period expires without just cause. Do not state an annual salary. Instead, discuss salary in weekly or monthly amounts. Stating an annual salary could be implied as a promise to employ for a year. Have all job applicants sign the application as proof they received your disclaimer. The employment application we prepared for our clients incorporates the disclaimer discussed above and other preventative law strategies. Your interviewers must be aware of your at-will employment policy. Every one that conducts interviews for you must be aware of your policy and must be able to clearly communicate your policy to applicants. Add an employment-at-will disclaimer to your employee manual. If you have a manual, include a disclaimer. See the job application disclaimer discussed above. Add disclaimers stating your handbook is subject to change. Also state your handbook does not constitute an expressed or implied contract. Review for statements implying permanent or just cause employment. You should review your handbook and all documents you give to employees. Make clear that your at-will disclaimer applies to each of your classifications. With rules that do not specify penalties, employees receive the same message without limiting your right to discipline. Employers that do not want to preserve at-will status and instead want to provide grounds and procedures for discipline should consult an experienced employment lawyer for help drafting their policy. Avoid written and oral promises and implied promises of job tenure. All owners and managers must be aware of this and must not invalidate your employment at-will policy with inappropriate comments. Give each employee a written job description. A correct job description lets an employee know what is expected. It can also convince employees that the required duties are fair. Give honest, accurate and constructive evaluations in writing. Managers often fail to candidly identify job performance problems because they do not want to upset employees. As a result, the inaccurate favorable reviews are used against the company as evidence of discrimination or some other improper purpose in a latter wrongful termination suit. Help your mangers with their evaluations. Refer to the

written job descriptions described in item 13 above. Give specific, objective evaluations. Objective evaluations stating the number of times the employee was tardy or specific instances when they did not follow directions will help minimize unfairness and manager bias. State any corrective action required and the consequences for failure to improve. Review all evaluations with another manager preferably a higher level manager before giving the evaluation to the employee. Discuss evaluations with employees. Give employees an opportunity to discuss the evaluation with their manager and to note any comments on the evaluation before signing the document. This gives the employee a fair chance to rebut any complaints. Review evaluations throughout your organization. Periodically review evaluations to ensure they are applied consistently by each manager. Counsel any managers whose reviews appear to be inconsistent. This report provided as an educational service by Oregon attorney Alan Thayer. He welcomes your questions and comments.

Chapter 8 : Understanding Employee Lawsuits (Most Common & How to Avoid) - UpCounsel Blog

in avoiding -- or defending -- lawsuits by terminated employees. An employer facing employee terminations - whether a single employee who has become problematic, or a large group of employees who must be terminated because the company's.

Getty Images The last thing your small business or startup needs is a law suit. Your employees --and even the government, regardless of whether your employees complained--can sue you. Do yourself a favor, avoid a legal scuffle with workers. I got a press release from a startup that proclaimed that they "hired young! I emailed them back and asked if they were aware that they were violating federal law. I hope they fired whoever came up with that idea. You cannot discriminate on the basis of race, gender, age, national origin, disability, religion and pregnancy status. Some states and localities have additional requirements, such as sexual orientation, as well. It opens you up to a whole host of lawsuits. Your hourly workforce must be paid for every minute they work. Working off the clock is illegal--not for the employee, but for the employer. You can fire the person, but you must pay first. Cease creating unnecessary rules. You want your business to have a look and feel about it, and you want to promote a certain culture. But keep your rules limited to what really matters. Similarly, health focused companies might want avoid hiring overweight workers. And while you may win that lawsuit, remember it costs you to fight. Keep your rules in check and focused on what is necessary for the business. Pay based on the job requirements, and nothing else. Base salaries on market demands. If two people are doing the same job, their salaries should be pretty similar although not exact. Remember, just the appearance of wrong doing is enough to land you in court. If you follow these rules, you can substantially cut your risk of getting sued and of surviving an audit by the government. Also, consider having an employment lawyer on hand in case you have any questions. Feb 26, More from Inc.

Chapter 9 : Looking to avoid employee lawsuits? Here are some tips. - Smith Hulsey & Busey

In order to avoid such lawsuits, employers need, at a minimum, to carry worker's compensation insurance and to respond promptly to safety issues communicated to the employer. Furthermore, employers should diligently monitor potential safety hazards, follow published safety guidelines, and adequately train employees on workplace safety.

As increased efforts have been placed on protecting workers, employees are becoming more aware of their rights in the workplace and more willing to take action against employers who have violated labor laws. Among the most common legal complaints are wage and hour lawsuits, frequently filed by employees who feel they have been treated and paid unfairly. Lawsuits range from employees seeking overtime pay to challenging classifications. As the number of labor law violations and lawsuits continues to rise, the more vigilant employers must be to manage employees properly or fall victim to added costs. Below are five tips your organization should follow to help avoid labor law violations and employee lawsuits. Be clear about worker duties. Wrongly classifying employees as exempt, and thus denying them overtime pay, is a costly mistake made by many employers. The key to properly classifying is to truly know what your employees do. It means understanding their actual duties each day and designating them as exempt vs. The law presumes employees are entitled to overtime; the burden is on the employer to prove otherwise. Most employees are likely to be considered non-exempt and therefore eligible for overtime pay. At evaluation time, have your employees confirm their job descriptions. In that process, measure how they really spend their time and classify each employee appropriately. Keep accurate, detailed records. Keep records on name, address, gender, workweek, hourly rate, daily and weekly hours worked, daily or hourly earnings, overtime pay, and extraordinary additions or deductions from pay for three years for all hourly employees. The rest of your required information will come from your payroll records. Making payroll can be challenging because of issues such as cash flow, payroll taxes, withholdings, Social Security you name it. As a result, there are a lot of things a lawyer can go after. What else NOT to do: The government is cracking down, which could be costly for your business. You cannot consider a hour week plus a hour week as 80 hours of straight time. Each work week stands alone in the eyes of the law. Private employers cannot give time off in the future in exchange for overtime work now. Classify contractors and employees properly. If you can tell a worker where to be, what to do and when to do it, that worker is probably your employee not a contractor. It all comes down to who has control. Consider factors such as: In the end, remember this: It all starts with paying your employees accurately and on time. Plus, if you have questions about classifications, our certified HR professionals can offer support and guidance. This content is for educational purposes only and should not be considered legal advice.