

Compensation issues tough to navigate

The amount of information we have access to these days is astounding.

A few quick keystrokes, for example, could get me instructions for re-wiring my house, a new spring wardrobe (with free shipping!), and a diagnosis for that tickle in my throat.

I certainly accept the adage that knowledge is power. But the rate at which we can now acquire and share that knowledge is game changing for many industries as their stakeholders become more educated and empowered than ever. The legal field is no exception, as people are generally more aware of their rights, and often equally convinced of their entitlements in a number of areas.

For business owners, employees represent a major source of potential lawsuits. And compensation is an area of particular concern given that many complaints against employers revolve around it in some way.

Sandra Muller, of The Cicotte Law Firm in Kennewick, said litigation surrounding compensation matters is a hot issue. She recently spoke to the Three Rivers Entrepreneur Network about how to successfully navigate potential compensation pitfalls and how to stay out of court.

She identified key issues that can spark legal trouble for employers. Among those are the muddying of the employment relationship

waters and compliance with leave laws.

For employers with both regular employees and independent contractors, Muller suggests understanding what kind of an employee someone is, periodically confirming the appropriate relationship is still in place, verifying by some systematic means, and documenting it well.



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"A signed contract is a good start," she says, "but we don't live in a stagnant world, and relationships can evolve without us even realizing it. If an independent contractor starts being treated the same as a regular employee, Labor and Industries could deem them as such."

There also has been a lot of high-dollar litigation around leaves of absence, as people are using various types of leave at an increasing rate. Family medical leave is the most prevalent.

"When it comes to leave, as a precautionary measure, employers may want to go with whatever is most generous to the employee, whatever gives them the most rights possible," Muller said. "They should also meet with the employee before their leave starts, and request that they communicate while out to make sure nothing has changed that could affect how their leave is structured."

To be proactive, employers should periodically audit their leave policies and provide training not

only to their human resources staff, but also to managers or others involved in communicating about leave with employees.

"Knowing the requirements is not enough," Muller said. "Employers need to be aware that the courts and Department of Labor may not necessarily interpret matters in the same way employers do, which makes giving employees the most rights possible as afforded under leave laws a critical preventative practice."

These are just two of the myriad issues related or unrelated to compensation that could land employers in hot water, but the lesson is fairly straightforward.

Proactively seek legal counsel to clearly understand the rights and responsibilities of the company and its stakeholders.

Then, establish policies and training practices which support and ensure your consistency in upholding them, and you'll vastly improve your odds of staying out of court.

Disclaimer: *Statements and suggestions attributed herein to Ms. Muller should not be considered legal advice. Their purpose is solely to inform and stimulate thought. Proper legal advice requires establishment of an attorney-client relationship and fact-specific analysis and recommendations.*

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