

Wayne N. Outten
Outten & Golden LLP
1740 Broadway*
25th Floor
New York, New York 10019

(212) 245-1000
Fax (212) 977-4005
wno@outtengolden.com
www.outtengolden.com

OUTTEN'S ADMONITIONS

OR

TOP TEN WAYS FOR EMPLOYERS TO AVOID EMPLOYEE LAWSUITS

10. Listen to your employees. They may have legitimate complaints or good ideas. In any event, employees will value the opportunity to express themselves and to be taken seriously. This will reduce the likelihood of future problems, and employees will feel more invested with their employers in a common enterprise.

9. Talk to your employees. To the extent possible, keep employees informed of things that affect their jobs. Be clear and specific in telling employees what is expected of them, especially when a material change occurs (e.g., new standards or a new supervisor).

8. Evaluate employees' performance regularly and candidly. Provide

constructive and meaningful feedback. That includes providing positive feedback openly and generously. It also includes providing negative feedback privately and discreetly.

7. Identify problems and resolve disputes as quickly and fairly as possible.

Problems that are ignored have a way of ripening into disputes, and disputes left unresolved sometimes ripen into serious disruptions and costly litigation.

6. Be consistent and objective in your treatment of employees. Avoid

playing favorites. Evaluate and reward employees based on performance, not personality and politics.

5. Recognize that your company makes mistakes. To err is human. Your

policies and practices may be imperfect. In any event, your managers and supervisors can and will make mistakes. When mistakes happen, deal fairly with the past consequences, and try to fix the problem for the future.

4. Respect your employees' private lives. Recognize that employees have

private lives that matter to them. Don't intrude more than is welcome. Accommodate their reasonable needs and interests, including their personal family obligations; be flexible to the extent possible, consistent with legitimate business considerations. Respect employees' differences, such as race, ethnicity, background, and lifestyle.

* Firm now located at 3 Park Avenue, 29th Floor, NY, NY 10016

3. Be fair and reasonable in all your dealings with employees. Follow the Golden Rule: treat every employee the way you would want to be treated - that is, fairly. Treat every employee so as to bring out the best that person has to offer.

2. Consider ADR techniques. When the foregoing approaches fail to avert or resolve a particular dispute, consider using such dispute resolution procedures as peer review, early neutral evaluation, mediation, and non-binding arbitration. (Use of ADR procedures should always be truly voluntary - not crammed down on employees as a condition of initial or continued employment.)

1. Be nice to plaintiffs' attorneys. When you get a telephone call or letter from a lawyer representing a current or former employee, consider it an opportunity to engage in mutual problem-solving. Consider meeting with the employee and his or her counsel to exchange views on what happened and how the situation might be remedied. Such discussions may avert litigation.