

Jason Habinsky in New York Law Journal: Effective Communication Key to Mitigating COVID-19 Employment Litigation Risks

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PRACTICES Employee Benefits and Executive Compensation

Haynes Boone Partner [Jason Habinsky](#) talked with the *New York Law Journal* about the importance of effective communication from employers to help avoid employment litigation related to COVID-19.

Here is an excerpt:

The deluge of employment-related litigation may be just beginning. As the pandemic continues to confront employers with myriad challenges, like new shutdown orders and school closings, lawsuits will likely keep surging.

It should be obvious that during these tumultuous times, effective communication is crucial. It can be used not just to mitigate litigation risk but also to establish and reinforce leadership and comfort anxious and concerned employees. But effective communication can't be left to chance or sporadic inspiration. It must be grounded in rigorous planning and a willingness to act decisively. These steps can help:

Evaluate your coronavirus response team. Life for so many businesses in the COVID-19 era changes by the day. Federal, state and local governments issue information, orders, advisories, directives and new laws at a torrid pace. At the same time, the dangers wrought by the pandemic are prompting an avalanche of questions and concerns from employees: What is being done to keep me safe? What kind of accommodations am I entitled to? How many of my colleagues have been infected with COVID-19?

Operating in this environment without a dedicated team or with one that isn't effective or without a clear game plan to systematically address these concerns and questions is a recipe for confusion at best and litigation at worst. Allow one worker, for example, to work from home and deny another similarly situated worker's request, and you have a potential discrimination claim. "What you don't want is a free-for-all," notes Jason Habinsky, chair of Haynes Boone's labor and employment practice group. "You want to delegate tasks to individuals who understand the obligations to the employees and how to implement those obligations."

Lead with empathy and transparency. It's impossible to overestimate the fear and anxiety that the coronavirus has unleashed in so many employees. Communicating consistently that management understands the hardships they are enduring should be a priority. Employees who trust their leaders and believe management is doing everything they can to ensure their safety and accommodate them are generally less likely to bring lawsuits. On the flip side, if managers are too quick to dismiss an employee's concerns, it can create ill will and be used against the company later in litigation.

“A dismissal of an employee’s safety concerns could lead to an allegation you didn’t make a good faith effort to accommodate a reasonable request,” says Habinsky. “Disregarding an employee’s complaint could also give rise to a retaliation or whistleblowing claim if the concern is about safety or a legitimate requirement for accommodation.”

To read the full article, click [here](#).