Michael Best Adds Labor & Employment Lawyer in Milwaukee

Michael Best announced it has added Bethany C. McCurdy to its Milwaukee office as senior counsel in the firm's Labor & Employment Practice Group. McCurdy will concentrate her practice on management side employment law.

"As an experienced employment counselor and litigator, Bethany will be a powerful addition to our team," said Amy Schmidt Jones, Chair of Michael Best's Labor & Employment Relations Practice Group. "I'm confident that her aptitude for advising clients through various aspects of the employment relationship will continue to accelerate our presence here in the Midwest."

Prior to joining Michael Best, McCurdy was a member of Petrie + Pettit where she defended employers through a wide breadth of employment related disputes and litigation matters including disability, family and medical leave, wage and hour, discrimination and workplace harassment.

"We're thrilled that Bethany will be joining us here in Milwaukee," said Danielle Bergner, Michael Best's Managing Partner of the Milwaukee office. "Her dedication and determination to resolve client matters, particularly so in the manufacturing sector, will be a huge advantage to those she represents."

"The decision to join Michael Best presents a wonderful opportunity for me," said McCurdy. "The firm continues to expand and find new and interesting ways to better advise their clients and I'm certain that my colleagues and I will continue to enrich the L&E group."

McCurdy received her J.D. from Marquette University Law School

and her Bachelor’s Degree in Journalism and Sociology from the University of Wisconsin-Madison.

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Succession Planning: It’s Not Just for Emergencies

There are specific actions an organization can take to ensure it has the leadership it needs in case of a crisis, as well as for their future sustainability, according to TrainHR.

The company will present a **webinar** on the topic on Thursday, Sept. 7, 2017, at 1 p.m. EDT.

“Best-practice organizations use succession planning to not only prepare for potential leadership challenges but they also rely on such plans to develop and maintain the strong leadership that’s required to grow and keep pace with changes in their business, industry, and overall marketplace,” TrainHR says on its website.

Read more about the webinar.

Indiana Senate Chief ff Staff, Legal Counsel Rejoins Barnes & Thornburg

Jeffrey L. Papa, former chief of staff and chief legal counsel for the Indiana Senate, has rejoined **Barnes & Thornburg LLP** as a partner in the firm's Labor & Employment Law Department.

Papa, who was an attorney at the firm from 2001 to 2007, will focus his practice on immigration matters.

"We are excited to welcome back Jeff to the firm to assist our business clients with their immigration issues," said Brian L. Burdick, managing partner of Barnes & Thornburg's Indianapolis office. "Jeff's experience and understanding of immigration laws will greatly benefit businesses that continue to deal with the changing immigration environment as they seek to attract and retain talent to meet their objectives."

During his previous stint at Barnes & Thornburg, Papa counseled clients on a number of issues, including nonimmigrant status and visa issues, as well as permanent residency matters. His work also included government relations.

In addition to his work in the Indiana Senate, Papa previously served as mayor of the Town of Zionsville and as Zionsville Town Council President.

Papa is active in several different initiatives, including co-founder and strategic advisor of Zionsville's co-working space, zWorks. Additionally, he serves on the U. S. Global Leadership Coalition Indiana Advisory Committee.

He also is deeply involved in the community. He founded the Youth Enhancement and Training Initiative (YETI), a local nonprofit organization that raises operating funds for a Nepali orphanage.

Papa earned his J.D. and a master's degree from the Indiana University Robert H. McKinney School of Law. He earned a doctorate in education administration and leadership from Indiana State University and a graduate certificate in higher education and student affairs from Indiana University. He also holds a master's degree in business economics from Ball State University and a bachelor's degree in economics from Rose-Hulman Institute of Technology.

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Akerman Labor & Employment Partners in New York, Denver, Miami, and DC

Akerman LLP has expanded its Labor & Employment Practice Group with partners Angela Hart-Edwards in Washington, D.C., Colin Barnacle in Denver, Denise Gavica Perez in Miami and Rory McEvoy in New York. They work with employers in the healthcare, hospitality and restaurant sectors, among others, the firm said in a release.

"Angela, Colin, Denise and Rory are exceptional lawyers who bolster Akerman's national strengths in employment litigation

and compliance," said Eric Gordon, chair of Akerman's Labor & Employment Practice Group. "Employers today are faced with a new set of uncertainties brought on by significant shifts in U.S. employment and immigration policies. The expansion of our team in New York, Denver, Miami and Washington, D.C., advances our ability to problem-solve on the ground with our clients while serving their interests nationally."

The release continues:

Angela Hart-Edwards
Hart-Edwards is a former Trial Attorney for the U.S. Equal Employment Opportunity Commission (EEOC) and the Department of Justice Civil Rights Division. She also served as an Assistant U.S. Attorney for the U.S. Attorney's Office for the District of Columbia. She focuses her practice in the areas of employment and civil rights law, government investigations and corporate compliance, and federal sector EEO employment law. With more than 20 years of experience as a trial lawyer, Hart-Edwards represents corporations and their executives in labor and employment related litigation, class/collective actions, agency proceedings, arbitrations and mediations and investigations. She also provides EEO services and defensive federal sector employment litigation services to agencies.

Hart-Edwards regularly advises management on litigation avoidance, negotiates and prepares employment and related agreements, provides human resource and EEO regulatory compliance counseling and training, and serves as corporate diversity counselor. Her clients represent a diverse range of industries including manufacturing, logistics, utilities, higher education institutions, technology, nonprofit, government, healthcare, staffing, retail, and hospitality. She also serves as General Counsel to the Commissioners of the Maryland Commission on Civil Rights and as an advisor to The Council for Federal EEO and Civil Rights Executives.

Colin Barnacle

Barnacle focuses his practice on labor and employment litigation, compliance counseling, corporate governance counseling and investigations, and non-compete and trade secret enforcement. He regularly advises and defends clients in response to the EEOC and the Office of Federal Contract Compliance Programs (OFCCP), including systemic discrimination investigations and related class actions. He has represented employers in all aspects of employment law before state and federal agencies and courts, including wage and hour collective/class actions under the Fair Labor Standards Act (FLSA), Title VII discrimination and sexual harassment, as well as actions under the Americans with Disabilities Act (ADA), Family and Medical Leave Act (FMLA), and state workers compensation laws. He is also experienced in Older Workers Benefit Protection Act (OWBPA) compliance, Worker Adjustment and Retraining Notification Act (WARN) compliance during mass layoffs, and employee-related issues surrounding corporate transactions. Barnacle represents food companies throughout the supply chain, including growers/shippers, manufacturers, distributors, retailers and food service businesses.

Barnacle brings years of in-house legal experience having served as Division General Counsel for Americas Fresh Foods, The WhiteWave Foods Company (NYSE: WWAV), a leading consumer packaged food and beverage company, and as Assistant General Counsel for The Gates Corporation, a global diversified manufacturer of industrial and automotive products.

Denise Gavica Perez
Gavica Perez focuses her practice on corporate immigration matters, with a strong emphasis in the healthcare sector. She routinely counsels hospitals seeking to obtain non-immigrant and immigrant visas for employees including physicians, nurses, residents, pharmacists, fellows, medical technologists, as well as staffing agencies tasked with recruiting healthcare professionals. She also has 18 years of practice representing companies within the financial services,

technology, sports and entertainment, hospitality, higher-education, construction and engineering sectors.

Gavica Perez regularly provides legal counsel to entrepreneurs and high-net-worth individuals regarding investment-based immigration, including the EB-5 Immigrant Investor Program, and she advises clients on the full range of immigrant visas, labor certifications, and U.S. citizenship matters. She has experience managing the immigration compliance programs for multinational corporations and institutions engaged in a wide range of activities and industries, including financial services, technology, sports and entertainment, higher-education, construction and engineering. She also has represented companies in connection with Department of Homeland Security (DHS), Form I-9 (Employment Eligibility Verification) audits, and Department of Labor/Wage and Hour Division immigration-related investigations.

Rory McEvoy
McEvoy focuses his practice on labor and employment matters, including litigation in federal and state courts and agencies. He routinely handles matters involving collective bargaining, arbitrations, unfair labor practices and union representation proceedings before the National Labor Relations Board (NLRB). He also represents clients in all aspects of the employment relationship, including non-compete litigation, breach of employment contracts, wage and hour matters and defamation.

McEvoy represents many of New York’s large hospitals and healthcare systems. He also represents clients in other sectors, including financial services, philanthropic religious organizations, technology and educational institutions, among others.

Akerman has welcomed 17 lawyers to its Labor & Employment Practice Group in less than 15 months, expanding nationally with additions in Chicago, Denver, Los Angeles, Miami, New York, Orlando and Washington, D.C. Other notable arrivals

include Immigration Planning & Compliance Practice Chair Maria Casablanca in Miami; employment litigators Bran Noonan and Sarir Silver in New York, Lillian Chaves Moon in Orlando and Rachel Schumacher in Los Angeles.

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Workplace Plaintiffs Face Long Odds at Trial, Analytics Data Indicates

The ABA Journal **reports** that only 1 percent of plaintiffs who file federal job discrimination, harassment and retaliation claims win on the merits at trial, according to an analysis by the Lex Machina legal analytics firm.

The article by **Stephen Rynkiewicz** discusses Lex Machina's new employment litigation search and analysis module that covers findings of hostile work environment, retaliation and Title VII issues such as race bias, as well as discrimination based on age, equal rights, military, pregnancy and rehabilitation.

"Lex Machina reviewed nearly 72,000 cases and found that nearly three-fourths them settle, while employers prevail on summary judgment 13 percent of the time," writes Rynkiewicz. "In more bad news for plaintiffs, only 192 damage awards since

2009 included punitive damages."

Read the ABA Journal article.

After N.F.L. Concussion Settlement, Feeding Frenzy of Lawyers and Lender

Some former NFL players are receiving pitches for legal help in receiving checks from the league's legal sports history aimed at retirees who sued for lying about the dangers of concussions suffered by the players.

Ken Belson of ***The New York Times*** writes, "Some players may get very little, but others with severe neurological diseases may receive as much as $5 million. Now lawyers, lenders and would-be advisers are circling, pitching their services and trying to get a cut of the money."

Some of the ex-players with severe neurological disorders are cognitively impaired and may not understand the terms used by the lawyers who make the pitches.

Read the *NYT* article.

Why This Group is Trying to Stop Amazon From Buying Whole Foods

Marc Perrone, president of the United Food and Commercial Workers International Union, sees Amazon the way some Rust Belt workers see global trade – as a threat to American jobs, reports ***The Washington Post***.

Perrone was planning to file a complaint to the Federal Trade Commission, arguing that letting Amazon buy Whole Foods would trigger a wave of store closures and eventually quash customer choice, writes the *Post*'s **Danielle Paquette**.

"The United Food and Commercial Workers International Union has roughly 1.3 million members across North America, working for retailers at a typical wage of about $18 an hour, including benefits," according to Paquette. "Members are employed at stores such as Kroger, Safeway and Albertsons. Whole Foods, for contrast, isn't unionized."

Read the *Post* report.

Is Your Compliance Training Program Working Hard Enough?

Navex Global will present a complimentary webinar outlining the state of compliance training in 2017. The event will be Thursday, July 27, 2017, at 10 a.m. Pacific time/1 p.m. Eastern time.

"Employee compliance training is intended to create great culture – yet we are still seeing company after company in the headlines because of bad corporate culture," Navex says on its website. "So where's the disconnect?"

The webinar will address such questions as:

• What are advanced organizations doing to break through and help create an ethical culture through training?

• What issues threaten training effectiveness?

• How do I gain executive buy-in and decrease employee cynicism?

• How are companies measuring the ROI of training?

The presentation also will include benchmark data compiled from almost a thousand practitioners' feedback about their training efforts.

Register for the webinar.

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How Weak Are Employee Nondisclosure Agreements?

In a **blog post** on nondisclosure agreements, **Gregory W. McClune** of Foley & Lardner addresses the questions: Does an employer have the legal means to prevent disclosure of information acquired during employment? Likewise, can an employer seek legal redress for such disclosures?

“Drafting and enforcing NDAs requires considerable thought, care, continual maintenance and a skilled legal advisor,” writes McClune. “It is an area rife with risks and traps; and employers who believe they can “gag” their employees, by simply requiring them to sign a broadly worded agreement with heavy penalties, may be in for a rude shock.”

His article discusses difficulties as dealing with the lack of uniformity among states in enforcing NDAs, and the lack of sympathy for employers in the courts.

Read the article.

Webcast: Emerging Trends And Legal Analytics For Employment Litigation

Above the law and Lex Machina will present **a webinar** on trends and legal analytics for employment litigation on Thursday, July 13, at 12 p.m. EDT.

David Lat, founder of Above the Law, says the event will address such questions as: The What do recent political and economic changes mean for the employment litigation landscape? How can knowledge management and technological tools help litigators navigate the transformations in this sector?

Lex Machina is expanding its Legal Analytics to a new practice area, Employment Litigation, shedding light on this rapidly evolving area of law, Lat writes. The webcast will feature panelists discussing new employment litigation data, with never-before seen trends and insights about judges, parties, lawyers and law firms.

Register for the webinar.

When Employees Take Workplace

Communication Offline

By Natalie Lynch
Lynch Law Firm PLLC

Today, many people prefer texting over many other forms of communication such as calling or emailing the recipient. This is an efficient form of communication because individuals can send a quick message about something important to them within a few seconds rather than being busy on a call for several minutes. Despite its expedience, texting in the workplace can carry certain risks for employers and may pose some problems.

Potential Problems

One of the most serious concerns that employers have about texting in the workplace is its association with productivity. Employers do not want to see their staff distracted and busy concentrating on personal matters instead of the job at hand.

Another concern is that texting in the workplace can cause dangerous distractions. For example, employees may drive forklifts in industrial settings and may drive to complete sales calls or work errands. Texting while driving continues to be a major source of concern with distracted driving being the primary cause of accidents today.

Texting in the workplace also poses risks concerning privacy issues. Work videos sometimes go viral and often in a negative way for employers. Employees may send a video message to a friend, family member or rival that does not paint the employer in the best light. These messages can damage the company’s reputation. Also, confidential information or trade secrets may be stolen when employees take pictures of this information and send it to someone else.

Creating a Policy

Due to the many risks that texting in the workplace can cause, many employers may decide to institute cellphone policies that discuss the use of cellphones, texting and calling in the workplace. These policies set out the rules and expectations of the business. For example, there may be a complete prohibition on texting while driving for work purposes. Additionally, they may state that employees are not permitted to text while they are meeting with a customer or client in person. A common and important policy many employers implement is that no video or audio recording is permitted at work. The policy may outline certain disciplinary measures that the employer may have the discretion to take if the employee does not follow the rules. These actions may be progressive in nature, such as starting with a verbal warning and then moving up to a written warning. The employer should carefully consider a number of factors before implementing a cellphone policy in the workplace.

Considerations

While the simplest solution to avoid the problems texting in the workplace poses may be to ban all use of cellphones, this action will likely negatively impact employee morale. Many individuals depend on their cellphones to keep them in touch in important ways and employees may fear what to do in case of an emergency. A complete ban on cellphone use or texting may be considered antiquated and isolating to employees. When developing a policy for the business, it is important to consider the size of the business and the realistic ability to monitor employees' observation of the cellphone policy. Additionally, the culture and type of business is important to consider.

Judge Shoots Down eDiscovery Trade Secrets Case

A federal judge in Manhattan has rejected DTI Global's arguments that a sales team lured away by a competitor had misappropriated key trade secrets, such as its e-discovery clients' purchasing needs, and denied its motion for a preliminary injunction, according to a **Bloomberg Law report**.

The four sales agents had gone to work for LDiscovery.

U.S. District Judge Jed Rakoff wrote in his opinion that he was "unpersuaded that LDiscovery has done anything improper by entering into these agreements with the Individual Defendants, let alone that the Individual Defendants have breached the applicable terms of their agreements with DTI."

Read the Bloomberg article.

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What Would the Perfect Employee Agreement Look Like?

Image by NY Photographic

Bryan K. Wheelock of Harness Dickey has posted **an item** on the firm's website contemplating what perfection might look like in regard to an employee agreement.

"Lawyers strive for perfection in their work, but time constraints, budgets, and other factors work against us. Also, perfection is not always the same thing in every circumstance," he writes.

He discusses such topics as confidentiality, non-compete clauses, non-solicitation, assignment of inventions, access to computers, the return of employer property and confidential information, and publicity and social media restrictions.

Read the article.

Class Action Accuses Steptoe & Johnson of Gender Bias

A former associate filed a national class action against Steptoe & Johnson, claiming the giant law firm pays only lip service to gender equality, but has a male-dominated leadership that discriminates against women in pay and promotions, according to a **Courthouse News Service** report.

Ji-In Houck, of Los Angeles, says her starting pay at the firm as a contract attorney was barely half the $165,000 that inexperienced male lawyers made – though she had come to Steptoe with two years of experience in civil litigation.

"During her three years in Steptoe's Century City office, her salary typically was 30 percent to 40 percent less than male lawyers with comparable experience, she says in her June 22 complaint," writes **Don Debenedictis**. "When she left in March 2016, she was earning $200,000 a year, compared to the $230,000 paid to men at her level."

Read the Courthouse News article.

The Importance of Having an Anti-Retaliation Policy When

Conducting an Investigation

Employers are obligated to investigate certain discrimination complaints and they are required to prevent retaliation, advises Natalie Lynch of Lynch Service Company. The problem comes when employers investigate workplace affairs without a worthwhile non-retaliation policy.

In **an article** posted on the company's website, she explores the interplay between non-retaliation policies and workplace investigations.

She discusses what can result when no anti-retaliation policy is in place, the relevant laws, and the importance of establishing clear policies.

Read the article.

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A 'Dramatic' Gender Wage Gap Awaits In-House Counsel

The Association of Corporate Counsel released its latest in-house trends report, which revealed that a higher percentage of women's salaries were on the lower end of the salary scale than those of their male counterparts, reports **Above the Law**.

“The survey, based on responses from 1,800 in-house counsel in 53 countries, further stated that while a higher proportion of men existed in six of seven salary bands above and beyond $199,000, only 8 percent of male respondents actually believed that the in-house gender wage gap existed,” according to reporter **Staci Zaretsky**.

The ACC report also found that more than one-third of female respondents have had trouble finding satisfactory after an absence of six months or less. And longer absences hurt even more.

Read the Above the Law article.

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In-House Attorneys See 4.3 Percent Pay Hike

Above the Law **reports** on a BarkerGilmore in-house counsel compensation report that shows in-house lawyers received average pay increases of 4.3 percent last year.

“That sounds perfectly middling, until you realize every rung of the prevailing Biglaw associate scale bests that – some

years by a lot," writes **Joe Patrice**.

The tech industry led the way with higher salaries, bumping up 4.9 percent, while financial and manufacturing industries tied for the small hikes, just 3.7 percent. But the BarkerGilmore survey found that more respondents felt they were undercompensated compared to their peers.

Read the Above the Law article.

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Confusion With Independent Contractors v. Employees

By Natalie Lynch
Lynch Law Firm

Businesses may hire independent contractors and employees, and it is important that they understand the differences between these two classifications. Independent contractors do not get the same legal protections as employees do, such as being eligible for unemployment benefits or being protected by labor laws. Independent contractors often do not receive benefits of any type. Due to these distinctions, it is important for businesses to clearly classify independent contractors. Without proper classification, an independent contractor may be able to make claims reserved for employees if a court or

governmental agency decides that it was actually an employee instead of an independent contractor. The business may even be held responsible for paying payroll taxes on behalf of the newly-classified employee and face significant monetary penalties.

Right of Control Test

The Internal Revenue Service and other government agencies use the right of control test to determine whether an individual is an independent contractor or employee. If the employer has the right to control how the work is performed then the worker is considered an employee. However, if the business can only accept or reject the final product, then the person is considered an independent contractor. The IRS uses about 20 factors to evaluate who controls the work performed. The more control a company exercises over the work that is performed, the more likely that the worker will be classified as an employee. A worker does not have to meet all of the factors in order to be considered an employee or independent contractor. No one specific factor is dispositive. The IRS also gives different weight to different factors depending on the individual circumstances. Every state has additional tests. For example, Texas has an excellent chart to help make the evaluation more clear.

Factors

Some of the factors that are considered include:

Level of Instruction

An employee relationship is more likely to be determined when a worker is directed as to how to perform his or her work, when to perform it and where to perform it. Independent contractors generally have more freedom in these regards.

Training

Company-provided training suggests an employee relationship because the business is directing the methods by which the work should be performed.

On-Site Services
An employment relationship is suggested when the employer requires the worker to be at the company site even when the work can be performed somewhere else because this gives the employer more control over the worker.

Sequence of Work
When the employer determines the sequence of work such as which work should be performed first and last, this suggests greater control and an employment relationship.

Schedule
When a worker is required to work full-time hours, this is indicative of an employment relationship because the company has greater control over a majority of the client's time. Contractors have more flexible schedules while employees have more set hours.

Payment
An important difference between employees and independent contractors is how they are paid. Employment relationships may be based on hourly, weekly or monthly pay schedules. However, contractors are often paid based on project completion or by commission. Additionally, an employer may pay for business or travel expenses while an independent contractor is usually expected to pay these costs on its own. Likewise, an employer may provide tools and other materials necessary to complete a job for employees while an independent contractor must usually supply his or her own tools and materials.

Business Integration
Workers who perform tasks that are integrated into the business are more likely to be found to be employees rather than independent contractors.

Assignment
Employees are usually expected to perform the work themselves. However, independent contractors are often able to delegate

work to another person. Likewise, contractors may be able to hire, pay and supervise people who assist him or her. If the business controls assistants, there is more likely to be an employee relationship than a contractual one.

Termination
Employees can often be terminated for any reason or no reason in at-will states. However, contractors often have a contract that must be followed in order to avoid liability for early termination. The contract terms usually govern termination. Likewise, employees can usually quit their jobs for any reason while independent contractors usually cannot terminate the working relationship without ramification.

Carefully evaluating these factors can help businesses avoid possible liability associated with misclassifying employees.

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Equity Compensation for Partnerships and LLCs

Practical Law will present a **75-minute webinar** addressing common issues and structures for partnership and LLC equity compensation.

The event will be Wednesday, June 21, 2017, 1-2:15 p.m. EDT.

Partnership and LLC equity compensation programs raise many of the same issues that arise with corporate equity compensation.

However, because of the“flow-through” nature of partnership taxation, there are some unique planning opportunities and pitfalls that can arise in the realm of partnership equity compensation.

Topics will include:

- The difference between a “capital interest” and a “profits interest”;
- Profits interests subject to vesting restrictions;
- Tax Treatment of partnership and LLC equity awards upon various liquidity events; and
- Collateral tax and employee benefit consequences of partnership and LLC equity awards.

Presenters:

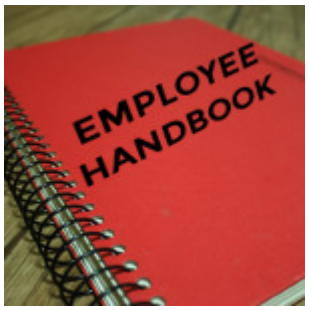
- Michael P. Spiro, Partner, Finn Dixon & Herling LLP
- Adam S. Mendelowitz, Associate, Finn Dixon & Herling LLP

A short Q&A session will follow.

Register for the webinar.

Updating Employee Handbooks

By Natalie Lynch
Lynch Service Company



Employee handbooks contain pivotal information about the business and expectations of employees. Handbooks that contain outdated information may contain illegal provisions or lack best practices. This can expose the business to unnecessary civil liability or a backlash by the public for perceived slights or biases. By reviewing employee handbooks on a regular basis, employers can proactively safeguard their company's interests.

Importance of Employee Handbooks

Employee handbooks contain important information about the business, including general rules, expectations, and protocol. Employee handbooks establish acceptable behavior and defines unacceptable behavior. These important documents often explain the fundamental policies that the business employs. With clear policies in place, it is more likely that they will be followed. If rules are broken, there is a set plan in place to deal with these issues. If the company is sued, the written contents of the employee handbook may protect the business.

Employee handbooks must be carefully constructed, taking into consideration the company's industry and other factors specific to the business. While setting out the expectations of the business, an employee handbook can often be most effective as a defensive tool against potential lawsuits from employees or others because it establishes that a particular rule or policy was in effect at the time of some specified event that led to the filing of a complaint. If the company followed its own policies and the employee was aware of these policies, there will be less of an argument in favor of the employee.

Importance of Updating Employee Handbooks

Laws are constantly changing and evolving. It is important that employee handbooks are updated periodically to account for these changes in the law. Additionally, employees must be updated about new policies and changes. In addition to

providing employees with a copy of the handbook, employees should also sign an acknowledgement indicating that they received the handbook. It is often recommended that employee handbooks be updated at least on an annual basis. Having a professional periodically review relevant laws and regulations can ensure that only the most current information is included in the handbook. Additionally, reviewing the handbook for clarity can help remove ambiguous language. Like with the original receipt of the handbook, employees should be required to sign an acknowledgment indicating that they are aware of the changes and have received a copy of them.

Provisions Included in Employee Handbooks

Handbooks may contain a variety of different provisions based on the particular needs and considerations of the business. However, some common provisions that are incorporated into these handbooks include:

At-Will Statement

By having an employee handbook, the employer will not want to infer in any way that the handbook takes the employment relationship outside of the at-will framework. This provision may state very simply that an employee can be terminated at any point and for any reason. This statement can help shield the business from claims that the employee can only be terminated for cause.

Disciplinary Procedure

The employee handbook should specify a disciplinary policy. This policy may be progressive in nature, such as increasing the severity of discipline as repeated conduct occurs. By following these procedures closely, the business may be able to shield itself from claims of discrimination. Any disciplinary policy should also make it clear that egregious activity will result in immediate termination.

Attendance Policy

The handbook should also specify the attendance policy. The

handbook may state that excessive absences may result in termination. At the same time, the handbook should take care to differentiate between regular absences and absences due to medical purposes to avoid violating any federal or state laws.

Overtime Policy
A policy regarding overtime may also be included in the employee handbook. Any policy should take care to comply with the Fair Labor Standards Act. There may be a requirement for managers to approve before overtime work is performed. To avoid legal liability, the time may be paid, but the employee may be disciplined.

Anti-Discrimination Policy
An anti-discrimination policy is an important component to an employee handbook. The employer may state that it has a zero-tolerance policy for harassment. This policy should outline the process that an employee should follow to report complaints of harassment. The policy may provide examples of harassment and outline the potential disciplinary measures that will be followed in the event of non-compliance.