

January 2014

Reporter

Employment Law

by Kelly O. Scott, Esq.

A New Vocabulary for HR Professionals

Any human resources professional will tell you that their job can be difficult. Every employer is subject to a vast array of state and federal employment laws. These laws are often complex and filled with subtleties that can trap the unwary. Further, new laws and variations on existing laws are enacted each year, chock full of surprises for the uninformed employer. However, the real challenge for the HR professional is not the law which, although complicated, can be understood, but rather the employees with whom the HR professional works. Because attempting to understand and anticipate the actions and motives of people, and the seemingly endless permutations thereof, is what keeps the HR professional up at night.

With this in mind, we offer a new vocabulary for HR professionals, an abridged dictionary of terms for some of the more common problems faced by those who are on the front line of employee management.

The Beleave. A leave lacking documentary support or any medical verification whatsoever, save the representations

and urgings of the absent employee that his or her word alone is sufficient and should be believed.

The Lottery Winner. An employee who demands more money or other job benefits, although he or she has yet to earn it.

A Train In Vain. An employee who blames poor performance on a lack of training and requests additional training, but who has already received as much or more training as everyone else who holds the position.

A Debbie Downer. An employee whose constant grumblings about the workplace have a negative impact on employee morale.

The I'll Be Back. An employee who keeps extending his or her medical leave in small increments, often well past any statutory or company leave requirements.

The Rubber Review. When the employee, during

Upcoming 2014 Seminars at ECJ

Thursday, January 30, 2014

New Laws for 2014 by Kelly O. Scott, Esq. - 8:30 a.m. - 9:30 a.m.

HR's Role in Protecting Trade Secrets by Kelly O. Scott, Esq. - 10:00 a.m. - 11:00 a.m.

Please contact Brandi Franzman at bfranzman@ecjlaw.com for registration information.

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or shortly after a poor performance review, attempts to turn the tables on the reviewer with pointed criticisms or complaints about the company or his or her supervisor.

The Tasmanian Devil. An employee who always seems to be in an argument and who is very combative.

The Magic Break. Magic because any evidence that the employee has taken his or her rest break, meal break or recovery period is invisible.

The Mall Cop. A non-supervisory employee who is full of instructions for co-workers.

Termination Fever. A sudden illness, leave of absence or workers' compensation claim prompted by the employee's uncanny sense that he or she is about to be terminated.

The Mystery Achievement. When an employee has an inaccurate and overinflated sense of their workplace value or contributions. The mystery achievement is often most noticeable around the time of performance evaluations.

The Catch Me If You Can. An employee who can rarely be found but who, when located, typically offers a precise and usually unverifiable explanation as to his or her prior whereabouts.

The I Dare You. A worker who wants to be fired, and often requests or dares the employer to terminate his or her employment, usually with the goal of collecting unemployment or, worse, filing a claim against the employer.

Holidayitis. An absence following a holiday. An employee's pattern of holidayitis is referred to as Holiday Disease.

A Kardashian. An employee whose addiction to tweeting, facebooking, snap chatting, and texting seems to have replaced any job-related efforts.

A Time Traveler. An employee who falsifies or alters

his or her time records, often with the assistance of other workers. See also Bonnie & Clyde.

A Tom Sawyer. An employee who manages to get co-workers to do his or her work.

A Bonnie & Clyde. A pair of employees who work together to cover each other's mistakes or misdeeds.

The Time-Clock Tortoise. An employee who always clocks out late in order to gain overtime pay. The time-clock tortoise typically doesn't work very fast at all, thereby needing to incur lots of overtime.

The Who Me? The employee who recognizes flaws in others, but not in him or herself.

A One-Armed Juggler. An employee who lacks any real ability to multi-task.

The Little Engine That Can't. An employee that is pessimistic about any project.

A Dodo Bird. An employee who is reluctant to adapt to any change. A dodo is typically someone who has been with the company a long time.

The Boomerang. When an employee raises a serious complaint shortly after disciplinary action or counseling.

A Dudley-Do-Wrong. An employee who will find a way to mess up any project.

A Ron Burgundy. An employee, frequently a manager, who thinks he or she knows all the rules, but who violates them with misdirected sense of humor, charm or management style.

Seasoned HR professionals know that dealing with these issues can be tricky and that a knee-jerk reaction to a given problem can land the employer in hot water. Careful consideration of all the circumstances is required, and consultation with legal counsel is frequently necessary. Over the months ahead, we will tackle these and other issues in greater depth in our blog, the appropriately named "Staff Infection".

If you have any questions regarding this bulletin, please contact Kelly O. Scott, Esq., Editor of this publication and Head of ECJ's Employment Law Department, at (310) 281-6348 or kscott@ecjlaw.com. If one of your colleagues would like to be a part of the Employment Law Reporter mailing list, or if you would like to receive copies electronically, please contact Brandi Franzman at (310) 281-6328 or bfranzman@ecjlaw.com.

■ **Registration Time:**

8:15 a.m.

■ **Seminar Time:**

8:30 a.m. to 9:30 a.m.
(continental breakfast provided)

■ **Cost:**

\$35 per person

What attendees are saying ...

“Kelly Scott was fabulous. His good-natured presentation was both informative and entertaining. His presentation style enabled the attendees to participate and I believe retain the presentation materials.”

■ **Registration Time:**

9:45 a.m.

■ **Seminar Time:**

10:00 a.m. to 11:00 a.m.
(continental breakfast provided)

■ **Cost:**

\$35 per person

The seminar ...

“Was fantastic and extremely informative. The delivery by Kelly Scott was outstanding ... the touch of comedy always helps. Looking forward to the next one.”

■ **New Laws for 2014**

Presented by *Kelly O. Scott, Esq.*

Thursday, January 30, 2014 at Ervin Cohen & Jessup LLP

Change is good... unless you are an employer in the State of California. Over the last year the legislature has been busy changing the landscape in which California employers do business and, contrary to what your mother may have told you, what you don't know CAN hurt you! We will review the most important developments that will have an immediate impact on the way you do business. Don't miss this opportunity to stay on top of the changes—before the changes get on top of you!

Register by Monday, January 27th. Contact Brandi Franzman at bfranzman@ecjlaw.com or (310) 281-6328 for registration information. Space is limited. Parking validation will be provided.

This seminar qualifies for 1.0 hours of Continuing Professional Education credit for Accountants.



Kelly O. Scott, Esq. heads ECJ's Employment Law Department and has over 25 years of experience in wage and hour, wrongful termination, harassment, discrimination, retaliation, class action, disability, medical leave, investigation, compliance training and litigation matters. Mr. Scott was named Best Employment Lawyer in Southern California for 2010 by the 5W Report, and was selected for inclusion in Southern California SuperLawyers®, published in Los Angeles magazine, for 2013, 2012, 2011, 2010, 2009, 2008, 2007, 2006 and 2004. Mr. Scott maintains a Martindale-Hubbell peer rating of AV.

■ **HR's Role in Protecting Trade Secrets**

Presented by *Kelly O. Scott, Esq.*

Thursday, January 30, 2014 at Ervin Cohen & Jessup LLP

Like it or not, H.R.'s role in protecting confidential information and trade secrets is essential to the survival of the business. The key, of course, is knowing what can be protected and how best to protect it. This session will provide innovative guidelines for evaluating confidential information and trade secrets and maintaining the confidentiality of key information. From hiring through termination, we will discuss a variety of preventative measures, including effective documentation, practical procedures and easily implemented tools and safeguards. The limitations and proper use of non-competition provisions will also be outlined.

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