

Harassment by Phone Text

Can an employer be liable for an employee's use of a company-issued cell phone?

Unfortunately, many employers learn the answer to this question the hard way.

Recent cases confirm that an employer can be brought into a harassment claim involving inappropriate messages sent via text message from a company-issued phone.

What can an employer do? Companies that issue phones should provide guidelines for text messaging in a phone-usage policy that is signed by the employee. The policy should clearly prohibit inappropriate texting and spell out under what circumstances an employee is allowed to



send text messages from the phone. It should also make clear that violations of the policy will lead to consequences, such as the revocation of the phone or termination of employment.

Employers can take such measures to minimize liability, but if an employee's actions result in a harassment claim, there will likely be defense costs. There could also be pricey settlements or judgments. To protect the firm against costs of harassment claims, you

will need liability insurance before the incident occurs.

Give our team a call to discuss your options. ■

E&O Insurance Is Good Business

Once limited to the realm of doctors, lawyers and real estate agents, errors and omissions insurance coverage has become an essential addition to the business insurance portfolio in most industries, large and small.

Errors and omissions (E&O) insurance protects professionals' and their firms' assets from claims alleging faulty performance, negligence, breach of contract and other claims that do not result in bodily injury or physical damage to tangible property. It will

pay to defend against a lawsuit and cover the costs of a settlement or judgment in most cases.

E&O coverage can also enhance your business's standing with vendors, suppliers, clients and partners who want surety that your advice and services are backed by some form of monetary support. There are some firms that simply won't refer you or work with you if you don't carry E&O.

Give our service team a call to review E&O insurance options that are right for your firm. ■

Wage and Hour Disputes



If your workers have been burning the midnight oil, so to speak, you need to maintain good records of their overtime and pay for those extra hours. Failure to adequately document the time or properly compensate often leads to costly wage disputes. Even if you do keep records and pay accordingly, charges of unfair labor practices—founded or groundless—can evolve.

Wage and hour claims such as these can cost an employer thousands before the issue is resolved. That's where employment practices liability insurance comes in. An EPLI policy can cover your firm's costs in the event of a wage and hour dispute claim. Most general liability policies exclude coverage for these kinds of actions, so it's important to talk to your agent about insuring against these kinds of claims specifically.

There's no substitute for good documentation and clear policies, but comprehensive employment practices liability insurance can help you if your internal wage and hour system comes under fire. For advice on managing your employment practices risk, give your agent a call. ■

Non-Hires Can Sue

In today's litigious society, it's not only employees who are bringing employment practices lawsuits against professional firms. Even those who aren't hired are out there suing. The process of hiring needs to be taken as seriously as that of firing. Use the following best practices from *HR Daily Advisor* to reduce your risk for claims of unfair hiring.

- Require a signed application from all candidates in addition to a submitted resume. That application should contain some statement that all information being provided by the applicant in the resume and accompanying documents for consideration is true.
- Include a clear statement on the

application that employment is at will.

- Make certain the application includes authorization to check references.
 - If applicable, an arbitration agreement should be included on the application.
 - There should be a space for the prospective hire to initial all provisions in the application as well as a space for signature that states the application as a whole is understood.
- While an employment practices liability policy can help with allegations of unfair hiring, these best practices will reduce your risk of complaints from the outset. ■

Liability Coverage After You Retire

Professionals nearing retirement should consider the following: If you are brought into a professional liability claim after retirement, are you adequately insured?

Lawyers, doctors, accountants and other professionals should know that the responsibility for their actions doesn't end upon retirement, but most professional liability insurance policies are written on a claims-made basis. This means that for coverage to apply, the claim must be made while the policy is in effect. When the policy is no longer in effect, coverage might be extended automatically for a short period of time, usually 60 days, under the policy's extended reporting period (ERP).

But what about claims that occur after the ERP has expired? The good



news is that it may be possible to increase the extended reporting period for several years, thus providing coverage for claims against previously covered professionals who have retired.

In addition to other guidelines, insurers may require that a request for extension be made promptly, usually during the policy's ERP, so don't delay in making professional insurance arrangements for your retirement. ■

D&O Coverage Differs Among Firms

Your directors and officers are counting on your firm's coverage to protect them against the costs of legal actions. It's up to you and them to work together with your insurance professionals to make sure you get the kind of coverage they need.

D&O policies vary, and the details are important. Obviously, non-payment of premium can lead to cancellation of coverage, but are there other reasons your policy can be terminated?

It's important to plan for costs

that aren't covered by the policy, as well. Does the policy cover punitive damages? What about claims made after the policy expires? Are

It's up to you to work with your directors and officers and your insurance professionals to get the coverage needed.

they covered, or do your directors need to reserve assets in case claims are filed outside the policy's

active period?

Your board might consist of independent directors. In that case, coverage is needed for them as well. You will also want to see about insuring non-officer employees who could be named in a suit with officers and/or directors. They are probably not covered in your standard D&O policy.

Give our service team a call to review your D&O coverage, especially as your board changes. We can help you get the coverage you need. ■

Discriminating Against Caregivers

Employees charged with caring for family members are frequent victims of workplace discrimination, according to the Equal Employment Opportunity Commission. The following scenarios from the EEOC illustrate common violations:

- Treating male caregivers more favorably than female caregivers, such as denying women with young children an employment opportunity that is available to men with young children.
- Sex-based stereotyping of working women, such as reassigning a woman to less desirable projects based on the assumption that, as a new mother, she will be less committed to her job or

unavailable for overtime.

- Assumptions about pregnant workers, such as limiting a pregnant worker's job duties based on pregnancy-related



stereotypes.

- Discrimination against working fathers, such as denying a male caregiver leave to care for an infant under circumstances

where such leave would be granted to a female caregiver.

- Stereotyping based on association with an individual with a disability, such as refusing to hire a single parent of a child with a disability based on the assumption that caregiving responsibilities will make the worker unreliable.

Good oversight of the workplace and an open-door policy for immediate redress of grievances can go a long way in placating victims and silencing harassment.

Make it your business to know how co-workers are treating each other, and ensure that your hiring, firing and job-assignment practices steer clear of discrimination. ■

**Thank you for
your referrals.**

If you're pleased with us, spread the word! We'll be happy to give the same great service to all of your friends and business associates.

Know Your Errors and Omissions Coverage

How much do you know about your firm's errors and omissions insurance policy? Can you answer the following questions?

- What does "claims-made" mean?
- Do I have to pay a deductible for defense costs, damages or both?
- What are my limits?
- Does the policy contain exclusions that could cost the firm more than we have reserved?
- Does my commercial general liability insurance or business owners policy offer any E&O coverage?

If you need assistance finding the answers to these and other important coverage questions, give our service team a call. ■
