

NOVEMBER 16, 2016

## WHAT'S ONLINE

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**Employment Law Update for Managers**  
on the tricky legal issues supervisors face daily.



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to ensure you're in compliance with employment law.

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## Managers are following their instincts ... why that's not good

### ■ 7 things workers want in 2017 (Hint: It's not money)

Here's a tough task for any HR professional: Convince managers in your company to fight human nature.

For most managers, the natural inclination is to spend more time working with and developing struggling employees than top performers.

But that urge isn't good for talent retention, and it lowers the ceiling on how high great employees can reach.

But that's simply not the case, says MBA professor and leadership consultant Karin Hurt of *LetsGrowLeaders.com*.

So what should you tell your management team to do? Have them aim for more of a balance between developing low- and high-performers.

Specifically, Hurt says top performers keep telling her they want to hear these things from their managers:

### What great workers want now

**The problem:** It's easy to leave great workers alone. After all, they can be counted on to hit goals, deadlines, etc.

Plus, they don't seem to want help.

### I'm 'impressed' ... 'appreciative'

Yes. You've been telling managers to thank employees more, but hopefully,

*(Please see Instincts ... on Page 2)*

## EEOC issues enforcement plan: 6 target areas

### ■ The agency's top priorities from now through the end of 2021

The EEOC just issued its second-ever Strategic Enforcement Plan.

This is big news because the plan will dictate where the agency will focus its compliance enforcement efforts over the next five years.

### Where to expect investigations

Here are the EEOC's top priorities:

1. **Eliminating barriers in recruitment and hiring.** The goal is to weed out practices that discriminate against protected classes of individuals.

2. **Protecting vulnerable workers** – like immigrant and migrant workers.

3. **Addressing emerging issues.** These include the emergence of the on-demand/temporary workforce and protecting LGBT community members.

4. **Ensuring equal pay for all workers.**

5. **Preserving access to the legal system.** The EEOC will target practices that prevent individuals from exercising their rights.

6. **Preventing systemic harassment.**

*The Plan: [www.tinyurl.com/eeoc476](http://www.tinyurl.com/eeoc476)*

## Instincts ...

(continued from Page 1)

this will drive home its importance once and for all: “Thanks” is the bedrock upon which the future development of already-great employees is built.

For employees to want to keep growing in your company, they need to hear that their work is appreciated or, better yet, that it impressed you.

### ***‘I know that’s not easy’***

As Hurt points out, top performers make things look easy – but they’re not.

And they’d love to tell you why things aren’t easy. So managers should ask employees what they’re dealing with. It’s valuable info.

### ***‘Show me how ...’***

Job descriptions don’t tell the story of how work gets done. As a result,

managers should get in the trenches with their employees to find out how the sausage gets made.

Some employees don’t think their managers can relate to them because they don’t know the finer details of their jobs.

Learning those details can build stronger relationships and reveal best practices that can be applied elsewhere.

### ***‘What should we change?’***

Employees, especially the good ones, know how your company could better serve your customers. All your managers have to do is ask.

### ***‘What’s slowing you down?’***

When Hurt talks to good employees, she’s surprised at how many are suffering in silence because something simple is gumming up the works.

Possible examples:

- Frequent communication breakdowns with the IT department.
- A lack of group meeting space.
- Equipment that’s malfunctioning.

### ***‘What do you want next?’***

Asking employees what they need or what their career goals are tells them your company cares – and that they aren’t just cogs in a machine.

These conversations can not only help good employees perform better, but also keep them around long-term.

### ***‘I want to help you’***

Hurt recommends that managers constantly challenge employees to do more and grow – then offer employees help to reach those goals.

She says true high-performers always want to accomplish more.

Employees get tired if they’re asked to do the same things over long periods, so managers must expand their worlds.

*Cite: Karin Hurt, and her Let’s Grow Leaders blog, [www.tinyurl.com/hurt476](http://www.tinyurl.com/hurt476)*

## Sharpen your JUDGMENT

*This feature provides a framework for decision making that helps keep you and your company out of trouble. It describes a recent legal conflict and lets you judge the outcome.*

### ■ **Could delay in training spark race discrimination trial?**

“Paul has it out for me, and you know it,” employee Mary Derth said to HR manager Lynn Rondo during her performance review.

“I don’t think that’s the case,” Lynn said. “Paul gave me your records, and you’ve been making mistakes since you started.”

### **‘My training was different’**

“All of your mistakes were things you should have learned to avoid in your training,” Lynn continued.

“Well, I wouldn’t have made those mistakes if Paul started my training right away,” Mary said. “It took two months to start mine. Meanwhile, my mistakes were piling up. Everyone else was trained right away.”

“I’ll admit it’s longer than usual, but Paul did train you,” Lynn said.

“Paul was no help,” Mary said. “He’s had it in for me because of my race since day one. He even ‘joked’ that I’d start complaining because I’m black.”

“I’ve spoken to Paul about his comments, but that doesn’t change your recent error rate. If your performance doesn’t improve, we’ll have to let you go,” Lynn said.

After another month, Mary continued making consistent errors and was fired. She then sued, claiming her manager had set her up to fail due to her race.

The company tried to get the lawsuit thrown out by arguing it had terminated Mary based solely on her performance. Was the company successful?

- *Make your decision, then please turn to Page 6 for the court’s ruling.*

## WHAT’S WORKING in Human Resources

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*What’s Working in Human Resources*, (ISSN 1088-3223) November 16, 2016, Vol. 21 No. 476, is published semi-monthly except once in December (23 times a year) by Progressive Business Publications, 370 Technology Drive, Malvern, PA 19355; PHONE: 800-220-5000. FAX: 610-647-8089. Periodicals postage paid at West Chester, PA 19380. Postmaster: Send address changes to *What’s Working in Human Resources*, 370 Technology Drive, Malvern, PA 19355.

**Subscription: 800-220-5000**

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# Ruling on ‘enhanced’ certifications shows how to use them for FMLA

### ■ Employer took proper steps and got interference lawsuit thrown out

If you’re worried an employee can’t take on his/her job duties after FMLA leave, here’s a tool that may protect you: It’s referred to as an “enhanced” fitness-for-duty certification.

Under a standard certification, a doctor may simply state whether or not an employee is able to return to work.

“Enhanced” certifications dig deeper, asking doctors to review the essential functions of employees’ jobs and whether employees can perform them.

### The process in practice

The enhanced certification process was brought to light in a recent lawsuit in which Erica Bento, a community outreach worker, sued her employer, the City of Milford, CT.

Bento claimed the city interfered with her FMLA rights after it delayed

her ability to return to work from FMLA leave until she completed an enhanced fitness-for-duty certification.

Bento provided a statement from her physician saying she was ready to return to work. But the city said the statement didn’t address Bento’s ability to perform essential job functions, and she couldn’t return until the enhanced certification was complete.

Result? The court threw out Bento’s lawsuit. It said the city could delay Bento’s reinstatement, because it:

- told her in writing, when it approved her leave, that a doctor must complete the job-specific certification, and
- detailed the essential functions of her position in that notice.

*Cite:* Bento v. City of Milford, U.S. Dist. Ct. of CT, No. 3:13-cv-01385 (VAB), 9/30/16.

# Court: This approach to saving on overtime costs just won’t fly under FLSA

### ■ As new rules approach, avoid this money-saving strategy

If you’re looking for ways to trim overtime exposure once the DOL’s new FLSA rules kick in December 1, don’t try this company’s method.

A DuPont plant in Towanda, PA, was sued by three employees claiming they weren’t being fully compensated for their overtime work.

### Can meal breaks ‘offset’ OT?

DuPont had a “shift relief” policy requiring employees to use 15 minutes or more to stick around post-shift to get incoming shift workers up to speed.

This time wasn’t considered time worked, so employees weren’t paid for it. But the employees claimed it entitled them to additional overtime pay.

DuPont tried to get the lawsuit thrown out. It argued it didn’t need to pay employees for the post-shift work since it paid employees for three half-hour meal breaks, which it wasn’t required by the FLSA to do.

Essentially, DuPont believed that paying employees for the breaks more than offset the need to pay them for the time spent on “shift relief.”

The court disagreed. It said nothing in the FLSA allows a company to use paid non-work time to offset unpaid work time the way DuPont was.

So it ruled DuPont had to pay employees for the “shift relief” work.

*Cite:* Smiley v. EI DuPont de Nemours & Co., U.S. Ct. of App. 3rd Cir., No. 14-4583, 10/7/16.

### ■ Sexual harassment whistleblower gets \$1M

If you’re going to fire a whistleblower, you’d better have rock-solid reasons to do it.

Advocate Health Care, a hospital chain in Illinois, just learned that lesson the hard way.

Dr. Brett Ohlfs worked at Advocate’s Christ Medical Center in Chicago as an ER physician when he reported his colleague was sexually harassing female resident doctors.

Advocate said it launched an investigation and decided no action against the colleague was needed.

Later, it fired Ohlfs. He then sued the hospital, claiming it retaliated against him for reporting his colleague’s harassing conduct.

In court, Advocate argued that it had legitimate business reasons for firing Ohlfs.

But its evidence wasn’t enough to convince a jury, which ruled Advocate owed Ohlfs \$1 million in damages.

*Info:* [www.tinyurl.com/whistle476](http://www.tinyurl.com/whistle476)

### ■ The discrimination hat trick: Ousted employee gets \$1.45M

Replacing an over-40 female minority member with a younger, white male – and paying him more – is a recipe for disaster.

Still, that’s what the city of Anaheim, CA, did when it forced city attorney Cristina Talley to resign.

Talley, a Latina, who was 56 at the time, was replaced by a 40-year-old white male who was given a higher starting salary than Talley’s final salary, according to court documents.

Talley then sued the city, claiming the trifecta of age, sex and race discrimination.

**Result:** Having already paid \$800,000 in legal fees fighting the suit, the city decided to settle to the tune of \$1.45 million rather than risk more letting the lawsuit go to trial.

*Info:* [www.tinyurl.com/discrim476](http://www.tinyurl.com/discrim476)

# Experts give their solutions to difficult workplace problems

*HR professionals like you face new questions every day on how to deal with workplace conflict and employment law. In this section, experts answer those real-life questions.*

### ADA: Can we fire disabled worker over violent threats?

**Q:** If an employee with a mental disability threatens to hurt a co-worker, can we terminate him or must we first explore possible accommodations – per the ADA?

**A:** As with most things ADA, comments attributed to a mental disability must be analyzed on a case-by-case basis. But courts have ruled employers cannot be forced to accommodate a disability if it would create an unsafe work environment for others, says Meredith Campbell ([mcampbell@shulmanrogers.com](mailto:mcampbell@shulmanrogers.com)), co-chair, Employment and Labor Group at Shulman Rogers.

This is especially true when employees express thoughts on committing homicide or similar violent acts in the workplace.

But a merely rude or unpleasant employee whose behavior can be attributed to a disability may still be protected under the ADA, requiring the employer to engage in the interactive process and seek reasonable accommodations.

### Reductions-in-force: 6 ways to reduce legal exposure

**Q:** We're about to go through a reduction-in-force, and some older workers will be affected. How can we best shield our company from age discrimination claims?

**A:** There are ways to reduce potential exposure, says employment law attorney Andrew Rodman ([ARodman@stearnsweaver.com](mailto:ARodman@stearnsweaver.com)) of the firm Stearns Weaver

Miller in Miami. Here are a few:

- **Focus on job performance.** Avoid suggesting someone's age has anything to do with his/her skills or performance.
- **Analyze layoff data in advance.** Make sure it doesn't scream "discrimination."
- **Prepare an internal memo** summarizing reasons for the reduction, layoff criteria and justification for each decision. Do it before the reduction.
- **Justify performance-based decisions** with objective evidence – like evaluations, discipline statements, etc.
- **Avoid buzzwords** like "new blood" or "college graduates."
- **Consider severance in exchange** for release of claims.

### 2 mistakes when hiring, selecting telecommuters

**Q:** What's a common mistake when hiring remote workers?

**A:** Failing to set clear communication protocols and expectations – like how quickly to respond to email or voice mail – needed to keep employees on track, says Tricia Sciortino president of eaHELP, a virtual assistant outsourcing firm, which has a remote workforce.

Another: Failing to view remote work as a specialized skill.

You need people with the time management skills to perform without an on-site manager.

*If you have an HR-related question, email it to Christian Schappel at: [cschappel@pbp.com](mailto:cschappel@pbp.com)*

## EFFECTIVE COMMUNICATION

### ■ Recruiting: This can make you very appealing to top talent

If you're looking for an innovative way to drive talent to your door, here's something you might want to consider: utilizing more text messages.

It may sound unorthodox, (admittedly, it's a little impersonal), but there are advantages to it.

For starters, 97% of Americans with smart phones text each day, making it the most used app on any device, says the Pew Research Center.

It's how a lot of people, especially the tech-savvy crowd, prefer to communicate today.

### 5 appealing employer benefits

So how can it benefit employers?

Sending texts, especially in the early stages of the hiring process, can show candidates that you're flexible and willing to meet them on their terms.

If you're texting with a strong candidate while your competitors trade voice mails with him, imagine the leg up it could give you.

Plus, talent management expert John Sullivan says there are many other merits to reaching out to candidates via text, such as:

- reducing candidate stress
- ease of interview scheduling
- reduced chance of bias
- instant documentation of what a recruiter, manager and/or candidate said (great for protecting yourself in today's litigious society), and
- lowering cost-per-hire, since – like video interviewing – it can cut down on travel expenses.

Of course, text messaging isn't going to replace face-to-face and phone interviews. But it could put another arrow in your quiver as you try to make contact with job-seekers who are more inclined to open up via text than in person.

**Info:** [www.tinyurl.com/text476](http://www.tinyurl.com/text476)

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## WHAT WORKED FOR OTHER COMPANIES

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Our subscribers come from a broad range of companies, both large and small. In this regular feature, three of them share a success story illustrating ideas you can adapt to your unique situation.

### 1 Key change to annual event paid off big time

We always relied on meeting with employees to explain the ins and outs of our benefits and the importance of leading healthier lives.

But we realized we were overlooking a key group. Spouses and children were on employees' plans as well, meaning the whole family's input and decisions were just as important as our staff's.

Without getting information to everyone, our health programs weren't as effective as they could be.

So we combined benefits and health education with our annual employee appreciation picnic.

#### All under one 'roof'

This was the one time of year when we had everyone – all our employees and their families – in the same place.

And here's what we started doing: Instead of serving the usual junk food, we gave out healthy snacks and meals.

Plus, we got our vendors and health providers to give presentations that were geared toward

children as well as adults. We also selected themes for our vendors to focus on each year, such as weight loss or smoking cessation.

This provided each event with an overall message that we could stress to employees and their families about making healthier decisions.

The changes to the company picnic educated employees and their families on our benefits and health programs, and they sparked healthier habits.

*(Joyce Miller, payroll/HR coordinator, Aero Energy, New Oxford, PA)*

**REAL  
PROBLEMS,  
REAL  
SOLUTIONS**

### 2 Raffle system ensured vacation time was used

At the end of the year, we saw that people were leaving their vacation time on the table.

When we asked why, employees said they didn't feel comfortable abandoning their teams. But we knew that people are more productive and happy when they take breaks.

Still, even after we explained that to our employees, vacation time continued to go unused and people kept working themselves into the ground. So we needed to get more

serious about getting people to take time off.

Our solution: We made vacation mandatory by introducing a raffle system.

#### And the winner is ...

For every year an employee has been with us, we put his or her name into a drawing that many times.

During a monthly meeting, we draw a name and that person must take a two-week vacation before the next meeting. And while on vacation, the person can't do anything work-related

like take work calls.

At first, it was scary for many. But we reassured them that while they'd be missed, the operation wouldn't fall apart in their absence.

We've been doing this for years and now everyone loves it.

Even if they don't win, employees are now more comfortable taking their vacation time.

Bonus: We got people looking forward to our monthly meetings.

*(Lee Burbage, chief people officer, The Motley Fool, Alexandria, VA)*

### 3 Change to meetings helped workers connect

We were looking for ways to improve camaraderie in our office.

Everyone got along great, but we realized that we didn't know much about each other outside the office.

We felt knowing more about what life looked like outside these walls for our employees would improve their relationships, communication and team work.

The question: *How do we do it?*

Going out for coffee or drinks took

too much planning. And all the team-building exercises we looked at felt too scripted. We needed a natural way to get people away from their desks and talking – less formally.

#### Walk and talk

Then, we got this idea from a client: on-the-go walking meetings.

Whenever someone needs to talk about a project, or just catch up, they're encouraged to take it on the go rather than grab a conference room.

This relaxed set-up helps people ease into other topics of conversation.

For example, we learned that one of our employees is a dog lover, and we were surprised to learn she has a Great Dane in her small-ish apartment.

Now, people send her articles and pictures related to dogs. She loves it. It's just one way the walks have really improved camaraderie.

Plus, knowing about each other's interests helps us better delegate projects to those best suited for them.

Bonus: Moods have improved, especially during nice weather.

*(Rob Longert, co-founder/managing partner, Day One Agency, New York)*

## NEWS YOU CAN USE

### DOJ releases HR-specific antitrust guidelines

You may want to take a few minutes and read the new guidelines the Department of Justice Antitrust Division just released.

While the guidelines don't break any new legal ground, they are specifically targeted at HR managers and outline how agreements with competing employers regarding things like worker pay and benefits can result in antitrust violations.

Examples of antitrust red flags:

- Having an agreement with another company about employee salaries, either at a specific level or within a range.
- Agreeing not to solicit or hire another company's employees.

At 11 pages, it's pretty concise for a government document.

*Guidelines:* [www.tinyurl.com/doj476](http://www.tinyurl.com/doj476)

### Federal agencies make it even easier to file charges

It's getting a lot easier for workers to file charges against employers.

Federal agencies have teamed up to create *Worker.gov*, both a guide to employee rights under federal law and a simple interface for filing charges.

It directly links employees to

agencies like the EEOC, DOL, OSHA and NLRB to file charges.

It's in the beta-testing stage now, but HR pros may want to go there and play around to see just how easy it'll be for disgruntled workers to use.

*Click:* [www.Worker.gov](http://www.Worker.gov)

### New ACA whistleblower rule takes effect

The federal government just added another question employers must ask before terminating or disciplining an employee: *Did the employee complain about our health or benefit plans?*

OSHA issued a final rule detailing anti-retaliation and whistleblower guidelines under the ACA. The agency is tasked with enforcing whistleblower provisions of several federal laws.

The rule protects employees from retaliation for things like: receiving financial aid from an exchange, and pointing out violations of consumer protections and reforms of the ACA.

*Rule:* [www.tinyurl.com/aca476](http://www.tinyurl.com/aca476)

### Lighter side: 5 odd excuses people had for calling out

When CareerBuilder asked employers to share the craziest call-out excuses they've heard, the results were priceless:

- Employee was blocked in by police raiding her home.

## WHAT COMPANIES TOLD US

### ACA effect on 401(k)s

Changes small businesses will make to retirement plans as a result of Obamacare

Increase 401(k) contributions since ACA has made health benefits less attractive

29%

Increasing 401(k) contributions now that retirement plans have become more important for attracting talent

43%

Offering retirement benefits for the first time since health plans aren't as critical for attracting talent

23%

*Source:* Survey conducted by Harris Poll on behalf of Nationwide Insurance.

Employers say the ACA has decreased the appeal of employer-sponsored health plans, because many individuals now feel they can get equivalent benefits on the open market.

*Each issue of WWHR contains an exclusive survey to give executives insight into what their peers nationwide are thinking and doing.*

- Employee was hit by a duck.
- Employee said the ozone in the air flattened his tires.
- Employee said he had better things to do.
- Employee said her roots were showing and she had to keep her hair appointment because she looked like a mess.

*Info:* [www.tinyurl.com/survey476](http://www.tinyurl.com/survey476)

*Sharpen your judgment...*

## THE DECISION

*(See case on Page 2)*

No. The company lost when a judge allowed Mary's case to proceed. Now the company is facing an expensive court battle or settlement.

The company argued that it had fired Mary due to her poor performance alone. It said despite her training, she continued to make mistakes.

Mary argued that Paul had delayed her training on purpose, which contributed to her performance problems and set her up to fail. Plus, she said his inappropriate comments about her race were proof that the decision to terminate her was, at least somewhat, racially motivated.

The court ruled that, given the significant delay in Mary's training and her manager's comments, there was sufficient evidence for a jury to hear the case. Now the company must convince a jury Mary wasn't treated differently because of her race.

### ■ Analysis: Consistency just as important as records

Mary's odd training schedule, coupled with her manager's comments, landed this company in a costly trial.

This case shows that consistency in how employees are trained and treated is just as important as performance documentation. It took Mary two months to be trained, when most hires were trained from the get-go. That looked suspicious to the court. Had Mary's manager trained her like everyone else, her lawsuit would've had far less to stand on.

*Cite:* Couch v. Iowa Dept. of Human Services, *Crt. of App., IA, No. 15-0432, 10/12/16. Fictionalized for dramatic effect.*

# 2 low-cost benefits education offerings reduced employees' stress

■ *Helped staff focus more on work and less on financial worries*

We know that when employees are worried about money, that stress can spill over into the workplace and affect morale – not to mention productivity.

So we're always looking for ways to ease employees' financial worries.

We have a pretty good benefits package, including a great retirement plan, but recent employee feedback had us concerned.

When we surveyed employees and asked if they felt financially secure, many responded that they were living paycheck to paycheck, struggling to pay off debt and didn't have much saved for retirement.

### First order of business

That raised some alarms, and we felt we needed to take action.

The first thing we decided to do was change how we were communicating to employees about their benefits and how those benefits can work to ease financial concerns.

We began by speaking to our retirement plan vendor to see what help it could provide.

It said it could send a representative to our office to personally answer employees' financial questions.

### Made the most of break time

The only problem was, we couldn't expect every employee to be able to attend a financial seminar during the work day.

So we decided to take advantage of the one place most employees did gather at about the same time every day: the break room.

The representative set up a table right in the employee

break room, by the entrance.

We let people know through email that she was stopping in over the lunch hour – and that she'd be making several weekly visits at the same time, same place.

When people came in for lunch, they were able to eat with the advisor and ask her questions.

She was so popular when she came to visit, she almost never ate lunch alone. It clearly helped people feel more knowledgeable about finances.

We also took it as a sign that people were interested in learning more.

### Next areas of focus

To feed that interest, we worked with our vendor to set up a financial class.

The class could be completed online, and it covered material like:

- saving for retirement
- the nuances of our financial benefits package
- how to handle money/budget, and
- paying back loans and debt.

As an incentive, if people completed and passed the course, we covered the materials and fee (\$129).

### More than 9 in 10 passed

We considered the expense worth it if the class helped them financially.

We've had a lot of participation in the class. And of those who took it, 94% passed.

Plus, employees reported being thrilled with what it taught them.

The efforts appear to have really helped reduce employee stress.

*(Tim Hess, SR VP of HR and training, McLeod Health, Florence, SC)*

**Case Study:**  
**WHAT**  
**WORKED,**  
**WHAT**  
**DIDN'T**

### ■ **Overworked, underappreciated:** **Ways to improve your position**

HR professionals have a lot on their plates at the moment, and not everyone realizes that.

It's particularly troubling when the C-suite doesn't fully appreciate all that you do. That makes it harder to get the support you need.

Still, there are ways to obtain it.

### Help yourself and your company

Whether you're a busy HR department-of-one or just feeling stretched too thin, ex-HR-turned-management-advice-writer Suzanne Lucas (*EvilHRLady.org*) just shared her best tips on how to get the resources you need to thrive.

Her advice:

- **Get a seat at the table.** Ask to be included when the executive committee meets. Your rationale: As the key person providing talent for the organization, you should be included in any meeting in which company strategy is discussed. The more you make yourself look like the key business partner you are, the more support the C-suite will throw your way.
- **Prioritize and hand off.** Identify what tasks fall solely into your realm of expertise, then hand off some of the rest. Maybe managers could do more with the hiring process – like reviewing resumes – or Finance could handle some benefits enrollment responsibilities.
- **Consider more outsourcing.** Look for things that could be outsourced. Priority No. 1 is likely your company handbook, according to Lucas. Usually, it's best if it's created by an attorney, she said. Why? It has become a legal document, and anyone short of a lawyer is usually not the most qualified person to write it. Another potential item to outsource: payroll.

**Cite:** [www.tinyurl.com/HRlady476](http://www.tinyurl.com/HRlady476)

## WHAT WOULD YOU DO?

Companies face competing agendas when dealing with their employees. They must find ways to inspire their people to excel, while controlling costs and staying within the law. Here we present a challenging scenario and ask three executives to explain how they'd handle it.

### 'Don't want to punch time clock!' Changes from new OT rule have employees upset

#### The Scenario

HR manager Stu Capper was in the middle of nailing down his Thanksgiving vacation plans when manager Alison Marsh knocked on his door.

"Hey, Stu, have you heard anything from Mary Dustin?" Alison asked.

"No. Should I have?" Stu replied.

"She's upset about being switched from salary, exempt to hourly, non-exempt," Alison said. "I tried to calm her down, but I don't know if I got through."

"This DOL overtime rule is a real headache, and I know Mary won't be alone," Stu said. "Many here will be affected the same way."

#### 'Explanation didn't help'

"So what did you go over with Mary?" Stu asked. "Did you explain to her we're just

trying to follow the law?"

"I've been through it all with her. I've explained that this isn't a demotion," Alison said. "But she's still upset, and I'm afraid it'll start affecting her – and the team's – work.

"Mary is insisting that she didn't work for 15 years just to start punching a time clock again," Alison continued.

"Yeah, I've heard that from a few other people myself," Stu said.

"She's also worried about her pay," Alison said. "She doesn't want to lose money for taking an afternoon off to go to the doctor or to see her son's soccer games.

"It's a real culture shock for many of us. How do you want to play this?"

"We've still got time before the rule officially kicks in. I'll look into what I can do and get back to you," Stu said.

If you were Stu, what would you do?

#### Reader Responses

**1** Christy Lynn, HR specialist, Indianapolis Marion County Building Authority, Indianapolis

*What Christy would do:* The first thing to do is inform employees of the law change.

I've started the communication process already, letting my employees know what's changing – and when.

If Stu's done that, I'd recommend trying to shift blame from the organization to the government as much as possible. It's all you can really do at this point.

*Reason:* Not only do you want to give employees as much info as possible about what's happening, but also as much time as possible to digest it.

**2** Juan Carlos Ramos Paulino, HR director, Golden Hippo Media, Woodland Hills, CA

*What Juan would do:* Our HR and legal teams held panel discussions to figure out how to best notify exempt employees.

As a result, we sent letters to affected employees outlining the reasons for the changes, what it meant for their scheduling and who to contact if they had questions.

So I'd have Mary contact me directly, and I'd try to relay that info personally. Hopefully, she'll start to see the reasoning behind why this is happening.

*Reason:* The change can be alarming. But as long as you're up front and direct all questions back to those who understand the situation, you're as prepared as you can be.

**3** Maria Jackson, HR manager, Plum Healthcare Group LLC, San Diego

*What Maria would do:* We got a head start on switching our employees over.

Like Mary, we had a lot of people who felt they wouldn't be viewed as professionals. We just explained this was now the law and not a reflection on their importance to us.

*Reason:* We felt if we were patient, employees would eventually catch on that this isn't a bad thing – and they did.

#### QUOTES

**E**very day, do something to move the ball forward.

Jayne Atkinson

**T**he minute you're satisfied with where you are, you aren't there anymore.

Tony Gwynn

**B**e a good steward of your gifts. Protect your time. Feed your inner life. Avoid too much noise. Read good books, have good sentences in your ears. Be by yourself as often as you can. Walk. Take the phone off the hook. Work regular hours.

Jane Kenyon

**K**nowing what must be done does away with fear.

Rosa Parks

**N**o man who continues to add something to the material, intellectual and moral well-being of the place in which he lives is long left without proper reward.

Booker T. Washington

**T**here is no education like adversity.

Benjamin Disraeli