Employee Discipline for Conduct Outside of Work

February 18, 2009

Time: 1:00 pm ET (12:00 pm CT, 11:00 am MT, 10:00 am PT)

Live Teleconference - $199        Live Teleconference & Archived CD Package - $248

Length: 1 hour 30 minutes

Benefits

In this informative 90-minute teleconference, you will learn the legal rights and responsibilities of employers in disciplining employees for conduct outside of work. You'll hear about recent legislation and court cases involving some of the hottest topics in employment law, including employee discipline for blogging, web-based 'employer trashing,' workplace dating and extramarital affairs, and physical appearance such as weight, tattoos and body piercing. Our experienced professionals will discuss permissible discipline for employees violating conflict of interest policies, including engaging in unfair competition with the employer. Significantly, this teleconference will discuss how a growing number of states are protecting employee off-duty conduct by providing an overview of state employee lifestyle statutes. For union employers, these topics will be discussed in the context of defending against employee grievances.

Agenda

I. Discipline for Conduct Outside Workplace Generally
   A. Required Connection to the Workplace
   B. Overview of State Lifestyle Statutes

II. Discipline Based on Speech
    A. Blogging and Web-Based Employer Trashing

III. Discipline Based on Lifestyle Choices
    A. Political Activity
    B. Dating and Extramarital Affairs
    C. Criminal, Financial and Litigation History
    D. Use of Drugs and Alcohol
    E. Activities Related to Sexual Orientation
    F. Physical Appearance (Weight, Tattoos, Piercings, Dress, etc.)
    G. Pornography
    H. Smoking
    I. Other Lifestyle Choices

IV. Discipline Based on Conflicts of Interest
    A. Unfair Competition With Employer
    B. Disclosure of Trade Secret, Confidential or Proprietary Information

V. Discipline of Union Employees
    A. Off-Duty Misconduct Away From Workplace
    B. Off-Duty Misconduct on Company Premises
    C. Off-Duty Misconduct Prior to Employment
D. Criminal Proceedings Against Employee

Faculty


T. Scott Kelly, Esq., is an attorney with Ogletree, Deakins, Nash, Smoak & Stewart, P.C., a national labor and employment law firm, in its Birmingham, Alabama, office. Mr. Kelly has experience representing employers in employment-related litigation on federal, state and local levels before court and administrative agencies regarding claims concerning discrimination, harassment, wrongful discharge, and wage and hour violations. In addition, he regularly provides counseling to employers on matters of employee discipline and termination, enforcement and implementation of employment policies, and workplace investigations. Mr. Kelly has also represented employers in compliance reviews and prepared affirmative action programs for construction, professional and financial institutions. He is a frequent lecturer in the areas of employment discrimination and affirmative action. Mr. Kelly is a member of the American Bar Association and serves as chair of the Young Lawyers' Division Labor and Employment Committee. He received a B.A. degree from Birmingham-Southern College and a law degree from Cumberland School of Law, Samford University. Mr. Kelly may be reached at 205-328-1900 or at Scott.Kelly@OgletreeDeakins.com.

James A. “Jay” Patton Jr., Esq., is an attorney in the national employment law firm of Ogletree, Deakins, Nash, Smoak & Stewart, P.C. He is a shareholder in the Birmingham office, where he exclusively represents management in employment law related matters and related litigation. Mr. Patton has experience representing employers in employment-related litigation on federal, state, and local levels before court and administrative agencies regarding claims concerning discrimination, harassment, wrongful discharge, and wage and hour violations (including collective actions). In addition, he regularly provides counseling to employers on matters of employee discipline and termination, noncompete agreements, separation issues, enforcement and implementation of employment policies, and workplace investigations. Mr. Patton has also worked on several complex matters including both class actions and multiple plaintiff actions. He is a frequent lecturer in the areas of employment discrimination and noncompete agreements. Mr. Patton is a member of the Defense Research Institute and was one of the authors of the Defense Research Institute’s recently published Jury Charge E-Desk Reference. He received a B.S. degree from the U.S. Military Academy at West Point. After graduation from West Point, Mr. Patton served as an officer in the U.S. Army and worked in manufacturing and sales roles before attending law school at The University of Alabama School of Law. Following law school, he was a law clerk for U.S. District Judge Ira DeMent in the Middle District of Alabama prior to entering private practice. Mr. Patton can be reached at 205-986-1021 or at jay.patton@ogletreedeakins.com.

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