Harassment, discrimination part of golf workplace

By LAWRENCE ROGAK

oss, you had better think twice before commenting on how tight that co-worker's skirt looks, or passing around jokes based on race, sex or national origin. You might have to reach deep into the company's coffers to pay for it. Businesses have always had to worry about risk and lawsuits, but this was usually in connection with injuries. But now, injured feelings can present a bigger economic hazard than injured bodies, and savvy business owners have no choice but to familiarize themselves with the potential risks in this area and to put into place a set of rules to deal with it.

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LEGAL CORNER

Employees who have been affected by real or perceived discrimination or harassment in the workplace have been turning in increasing numbers to the courts, where juries have, of late, shown an alarming willingness to award millions of dollars in compensatory damages for emotional injuries, even where the alleged victim has not shown any economic harm.

In any business, management must make it a goal to rid offensive behavior from the workplace, and to have written procedures in place to respond to it when it occurs. The Courts usually decline to hold a company liable when it can provide documentary evidence that it complies with the law, even when an employee or supervisor has engaged in an offensive or discriminatory act.

There are three steps to creating an effective workplace policy that can help immunize employers from harassment/Continued on page 50

PERSONNEL CORNER

Our golfing guests have arrived

By VINCE ALFONSO

The Bible has a lot to say about how you treat guests. The Orient has forever been known for its traditions concerning guests. The word hospitality truly transcends all cultures and religions. To say that someone is hospitable, that they practice hospitality, is to pay them a wonderful compliment. And everyone loves to receive genuine warm hospitality from their host or hostess. Don't you? I certainly do. Why, to be Continued on page 52

AGC's Price receives Humanitarian Award

SANTA MONICA, Calif.—American Golf Corp. Chairman of the Board and Chief Executive Officer David Price has received the prestigious 1998 Jerry Buss Humanitarian of the Year Award, in recognition of the company's many years of support for the Muscular Dystrophy Association (MDA) and numerous other local charitable organizations.

Price received the award, named after Los Angeles Lakers owner Dr. Jerry Buss, on March 1 during the 11th Annual Magic Johnson Sports Star Award Dinner & Auction benefiting MDA.

The American Golf Foundation operates its "Adopt-A-Charity" program in which each of American Golf's courses develops a partnership with a local charity and organizes an annual benefit golf tournament or other special event. Proceeds, including green fees, cart fees and Continued on page 52
Harassment
Continued from page 47
discrimination liability.
First, the company should
implement a formal and
rigorously enforced anti-
harassment policy with
procedures through which
employees can voice com-
plaints. The policy should be
distributed to all employees
and explained verbally.
Second, the employer should
conduct a prompt investigation
of all harassment complaints,
coupled with immediate and
appropriate corrective action to
remedy the situation. All this
should be documented. If
economically feasible, the
investigation should be
conducted by independent
counsel, not company manag-
ment. This creates more of an
air of objectivity in case
litigation follows, and informa-
tion gathered by independent
counsel is far less likely to be
subject to disclosure than
information gathered by
management. A company's
business records are usually
"discoverable," i.e., they must
be disclosed to a plaintiff's
lawyers; while information
gathered by your attorney is
usually "privileged," or secret.

The alleged victim should be
interviewed as soon as possible
after the incident. The inter-
viewer should take detailed
notes. Witnesses should be
identified and questioned until
the circumstances are suffi-
ciently clear and reasonable
conclusions can be drawn.
The offender should be
given the opportunity to
respond promptly. And any
remedial action taken should
not punish the victim, such as
an unwanted transfer or
reassignment. The offender
should be given appropriate
sanctions; a mere request that
he/she refrain from such
conduct in the future is not
enough.
Third, the employer should
implement a standardized
system to document that it has
complied with the law by
utilizing appropriate preventive
and corrective measures.
These should include: (1)
written policies on harassment;
(2) proof that these policies
have been distributed; (3)
formal notice of the grievance
procedure; (4) written and
signed witness statements and
interview memos; and (5) a
summary statement of the
results of the investigation and
the remedial action taken. An
employer should be able to
demonstrate that it has
handled all harassment
complaints in a systematic and
consistent manner.
Unfortunately, discrimina-
tion and harassment lawsuits
are often used by disgruntled
or fired employees for revenge.
Such lawsuits can follow the
end of an office romance; a
dismissal based on poor
performance; or because
the plaintiff is unusually sensitive.
But sometimes the harassment
is real and the lawsuit has
merit.
Insurance companies are
beginning to offer policies to
protect businesses from
harassment suits. However,
coverage is usually limited to
the acts of supervisors or co-
workers which was not known
to, nor condoned by, manage-
ment. Such insurance is well
worth looking into, as it
provides legal counsel. The
cost to a business of hiring
specialized counsel to defend
discrimination suits can be
very high. And in the American
legal system, the defendant
pays its own legal costs, even if
it wins the suit.

The field of discrimination
law is new and evolving
rapidly. The Equal Employ-
ment Opportunity Commission
(EEOC) is always busy writing
new regulations which prohibit
an ever-wider range of behav-
ior, giving more and more
people a basis to sue.

Businesses must evolve
defenses which will enable
them to survive this new and
potentially destructive form of
risk.

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