

YOU ARE RESPONSIBLE FOR THE ACTIONS OF YOUR EMPLOYEES

By Attorney Michael H. Wald

You are legally responsible for the actions of your employees. This statement is generally true if the employee is acting within the scope of his responsibility. Scary thought isn't it?

Lets assume that you have taken every precaution possible in the hiring process. Your employees are the absolute best available. Congratulations! You have nothing to worry about. Right? Wrong!

What are the employee's responsibilities to the company, to his co-workers, and to the public? I am certain that you know, but does each and every employee know? Your very best and most trusted employee can get you involved in legal action with a customer, a vendor, a government agency, or another employee.

Can you absolutely prevent legal actions from arising out of acts of your employees? No. Anytime an employee is acting "within the scope of employment," you are responsible. What does this cover? A jury would decide that, or if no jury exists, the judge. But minor deviations or detours from the employers business does not mean your employee is outside the scope of employment. For example, a car wreck while an employee is on an errand for you is your legal liability. Even if the wreck occurred while the employee had stopped at the bank along the way to cash a personal check.

There are some things you can do to minimize your risk and provide some defense if you find yourself involved in litigation of this type. You need not wait for a court to decide what is or isn't in you employee's "scope of responsibility." Here are some of the things you could do to help define what is within an employee's scope of responsibility:

1. Have a written job description for each employee.

2. Have a written policy and procedures manual covering as many aspects of your day to day business as possible.

3. Have a written contingency plan that covers emergency situations.

4. Have a written hierarchy of designated spokesmen to deal with media people and authorities.

5. Have a written employee handbook covering all aspects of the employer/employee relationship. It is very difficult to prove that an employee was acting outside his "scope of responsibility" if that responsibility is not documented.

Once you have the policies and procedures documented and in place; abide by them! If a change becomes necessary, make the change in writing. Actions contrary to policy allowed over long periods of time will generally be seen as new policy by the courts. If you see or learn of someone acting out of line, call a meeting to correct the situation.

In addition to minimizing risk, you will end up with better trained employees that understand what is expected of them. Every employee needs to know what is expected as well as what to expect. And you'll help keep yourself out of court because an employee did something wrong.

My thanks to Wesley D. Walker, a student of mine in my law class at the University of Texas at Dallas, who assisted in preparation of this column.

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