



106 Why Can't We Be Friends? Building a Strong HR/Legal Dept. Relationship

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Faculty Biographies

Barbara A. Gustafson

Barbara A. Gustafson is currently corporate counsel for GKN North America Services in Lisle, IL. Her responsibilities include providing legal services to the North American subsidiaries of GKN plc, a British holding company. Her primary areas of practice are commercial law, compliance, and human resources law.

Prior to joining GKN, Ms. Gustafson was senior counsel with Mallinckrodt Inc. for seven years, serving as primary counsel to the North America subsidiaries in the animal health field. Before joining Mallinckrodt, Ms. Gustafson spent seven years with MidCon Corp, a subsidiary of Occidental Petroleum, working in the area of commercial and oil and gas law.

Ms. Gustafson received a BMus from Southern Illinois University, an MEd from Vandercook College and is a graduate of the University of Chicago Law School.

Ivy R. Martin

Ivy R. Martin is general counsel and secretary of Datatrac Information Services, Inc. in Chantilly, VA. Datatrac provides customer relationship management services, identification card personalization services, telecommunications and systems integration services, and management consulting.

Prior to joining Datatrac, Ms. Martin served for 11 years as associate general counsel and assistant secretary of Booz Allen Hamilton, a technology and management consulting firm based in McLean, VA, and as corporate counsel of C3, Inc., a systems integrator also in Virginia for four years.

She has been an active member of the ACCA's Washington Metropolitan Area Chapter for over 10 years, serving as a member of its board of directors since 1996.

Ms. Martin received a BA from Mary Washington College and is a graduate of George Mason University School of Law.

Darryl A. Weiss

Darryl A. Weiss is the vice president of human resources and legal affairs for ORINCON Corporation International, a provider of signal processing, digital imaging, and information assurance solutions for defense, intelligence, and commercial applications. His responsibilities include overseeing the human resources function, executive compensation, providing legal counsel to the organization, serving on the intellectual property committee, mergers and acquisition, immigration, and international legal issues.

Prior to joining ORINCON, Mr. Weiss worked with various employers in the high technology sector. Throughout his career, he has worked on site in Canada, France, Germany, Hong Kong, Ireland, Japan, Malaysia, Netherlands, Singapore, Sweden, Switzerland, and the United Kingdom.

He is a frequent presenter to human resources and legal groups internationally and has published numerous articles on business immigration, international human resources, and opening offices in foreign countries.

Mr. Weiss received his BS from the University of Minnesota and is a graduate of the Thomas Jefferson College of Law.

WHY CAN'T WE BE FRIENDS?

Building a Better Relationship With Your Human Resources Department

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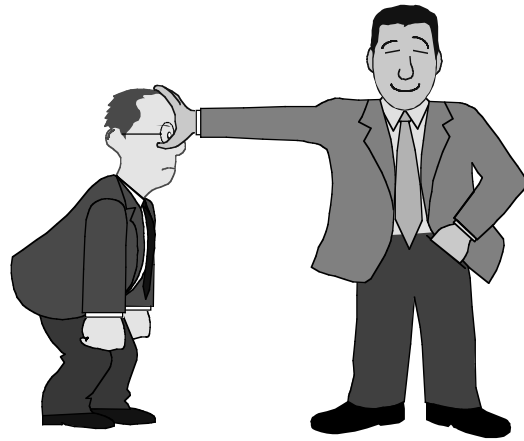
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HE SAYS, SHE SAYS



HR SAYS

- Could I Have an Answer Before I Retire?
- I Don't Get No Respect!
- Could You Give Me an Answer – in English?
- We Aren't Working Together As a Team.

LEGAL SAYS

- You Don't Trust Me.
- Give Me the Whole Story.
- Would You Mind Involving Me Early Enough So That I Could Have an Impact?
- We Aren't Working Together As a Team.

**“BE” ON THE SAME TEAM
AS YOUR HR CLIENT**



“BE” A COMMUNICATOR

- Return Phone Calls Even If You Don't Have an Answer
- Let People Know Your Timeframe and Stick to It
- Speak English

“BE” A PART OF THE SOLUTION

- Appreciate the Needs of the Business
- Recognize and Respect the Strengths and Weaknesses of Your HR Client
- Don't Just Quote the Regulations, Take a Position
- Find Out What the Real Question Is

“BE” Prepared

- For the Expected
 - Reductions In Force
 - Internal Investigations
- For the Unexpected
 - Disaster
 - Violence
 - Government Investigations

“BE” Proactive

- Provide Tools – Establish Processes
- Template Things That Are Repetitive –
Include Process Mapping
- Do Client Advisories in English With
Implications for the Business
- Follow the Business
- Provide Training

“BE” All That You Can Be (With Apologies to the Army)

- Be Interested
- Be Trustworthy
- Be Respectful
- Be a Partner

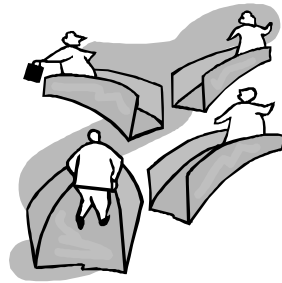
CRITICAL SITUATIONS

- Planned Activities
- Rapid Response
- Mutating



PLANNED ACTIVITIES

- Major Reduction in Force
 - Your Company Is About to Take a Dramatic Reduction in Headcount Due to Economic Conditions. The Reduction Will Take Place in 90 Days.



PLANNED ACTIVITIES

- WARN Act
- Selection Criteria
- Severance Package
 - Activity Specific
 - Release of Liability
- Potential Litigation
 - ADA
 - EEO
 - ADEA

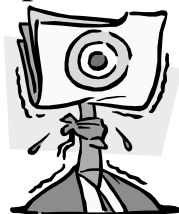


PLANNED ACTIVITIES

- Final Packet
 - Termination Paperwork
 - FAQ
 - Benefits Information
 - Unemployment Information
- Security

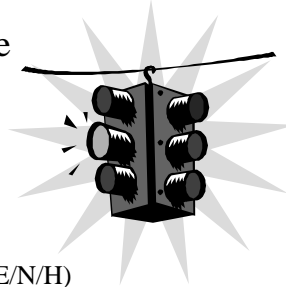
RAPID RESPONSE

- Employees on the Shop Floor Are Fighting and One Is Injured Requiring Stitches.
- A Sheriff or Marshall Shows up at the Front Desk With a Subpoena, Warrant, Etc.



RAPID RESPONSE

- Have Policies in Place
- Provide Checklists
 - Police Notification
 - Employer Liability
 - Union/Weingarten
 - Pay Issues If Suspended (E/N/H)
 - What Can/Can't the Sheriff or Marshal Do?
 - Who Should Be Called?
 - What Do You Say?
 - Who Can Accept Service?

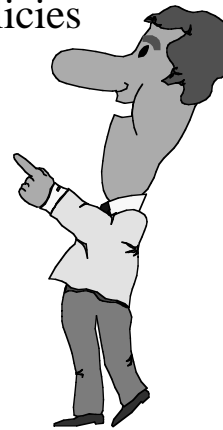


MUTATING

- Employee Files a Sexual Harassment Claim
- Employee Then Files a Retaliation Claim
- Employee Then Files a Worker's Compensation Claim for Stress
- Employee Then Files a Request for FMLA

MUTATING

- Procedures/Policies
- Liability
- Actions



CHECKLISTS (International)

- Visa Requirements for Other Countries in Which You Do Business
- Employment Contracts for Other Countries in Which You Do Business
- Employee Termination Requirements for Other Countries in Which You Do Business
- Data Protection and Privacy Issues

CHECKLISTS

(Immigration-Business Visas)

- B-1 Visitor For Business
- F-1 Student
- H-1c Professional Nurses
- H-1b Worker In Specialty Occupations
- H-2 Unskilled
- H-3 Trainee
- J-1 Exchange visitor
- L-1 Intra-company Transfer
- O-1 Individuals Of Extraordinary Achievement
- P-1 Performing Entertainers And Athletes
- TN-1 Trade NAFTA
- National Interest Waiver

CHECKLISTS

(Immigration-Process)

- Labor Condition Application (DOL)
- Visa Application (INS)
- Labor Certification (State and Federal DOL)
 - Full Process
 - Reduction in Recruitment
- Petition for Alien Worker to Become a Permanent Resident
- Adjustment of Status

CHECKLISTS

(Union Activity)

- No:
 - Threats
 - Interrogation
 - Promises
 - Spying (Off Premises)
- Communicate:
 - Facts
 - Opinions
 - Experiences
 - Organization's Unions Free Position

CHECKLISTS

(Reduction in Force)

- Worker Adjustment and Retraining Notification Act (WARN)
 - Any Employer Employing 100 or More Full Time Employees; Or

 - Any Employer Employing 100 or More Full Time and Part-time Employees Who in the Aggregate Work at Least 4,000 Hours or More Per Week on All Employment Sites.

CHECKLISTS

(Reduction in Force)

- **WARN** (*continued*)
 - WARN Defines a Mass Layoff As a Reduction in Force, Not a Plant Closing, During Any 30-day Period Which Results in the Employment Loss at a Single Employment Site for Either:
 - 50 Or More Full Time Employees, If They Comprise 33 Percent of the Workforce at the Employment Site;
OR
 - 500 Or More Full Time Employees.

CHECKLISTS

(Reduction in Force)

- **WARN** (*continued*)
- Employment loss excludes a plant closing or layoff resulting from the relocation and consolidation of all or part of the business if:
 - Prior to the closing or layoff the employer offers to transfer the employee to a different site of employment within a reasonable commuting distance with no more than a 6-month break in employment; OR
 - The employer offers to transfer the employee to any other site of employment regardless of the distance with no more than a 6-month break in employment, and the employee accepts within 30 days of the offer or of the closing or layoff, whichever is later.

CHECKLISTS (Reduction in Force)

- American With Disabilities Act
- Foreign Workers on Visas
- Severance
- Manner of Selection

CHECKLISTS (Forms)

- Handbooks
- Contracts
- Applications
- Non disclosure Agreements
- Non Compete Agreements

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FRIENDS?*

*Building a Better Relationship With Your
Human Resources Department*

THANK YOU FOR YOUR
ATTENDANCE &
PARTICIPATION!