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TACKLING ISSUES PLAGUING EMPLOYERS IN 2023

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Why are we drowning?

- Attendance and related performance problems
- Leaves of absence and sick pay rules
- Hiring/retention/employee malaise
- The tension/sweet spot between remote/hybrid/in-office work





SO WHATEVER YOU DO -

put on your own oxygen mask first.

Don't forget what may be the first step:

TIME MANAGEMENT

Set aside a few minutes every day to set your agenda, organize your priorities, set your intention for your day



How Do We Set Ourselves Up For Success With Employees?

Arm yourselves with information about the law,

Have good written policies and consistent practices (current employee handbook!),

Train your managers how to communicate,

Implement transparent, respectful and thoughtful coaching and counseling with your employees.



Summary of Laws Impacting Attendance Rules

- California and local sick pay laws – state and local (state just increased to five days – January 1, 2024)
- Anything that could trigger a leave of absence under FMLA/CFRA (including bereavement)
- Any absence under Pregnancy Disability Leave
- Any absence related to a potential work related injury or illness
- Any potential “disability” under the Americans with Disabilities Act or California Fair Employment & Housing Act
- Any absence protected under any other leaves (military, domestic violence, bone marrow donor, school visitation, etc)
- New leave of absence for reproductive losses – effective January 1, 2024 (extra five days)



COMMUNICATION





“The greatest
problem with
communication
is the illusion
that it has been
accomplished”

George Bernard Shaw

Why Communicate With Our Employees?


- Set goals and expectations
- Motivate existing employees
- Train new employees
- Enforce policies and procedures
- Increase client service
- Build a “farm team”
- Reduce frustration, anger, turnover
- Increase retention, morale and profitability





What Keeps Us From Communicating?

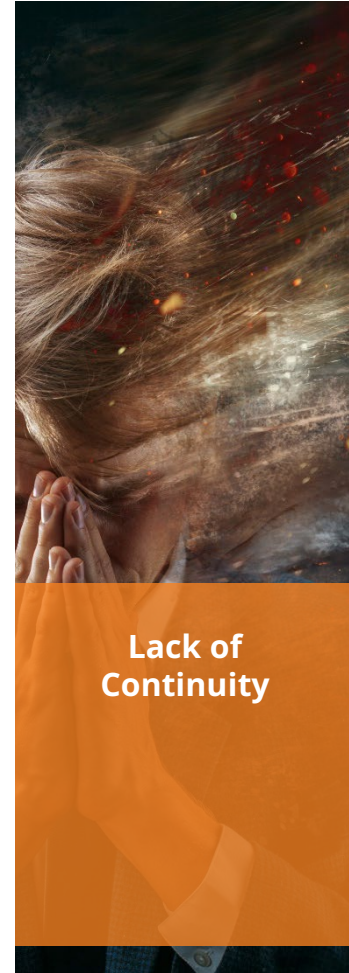
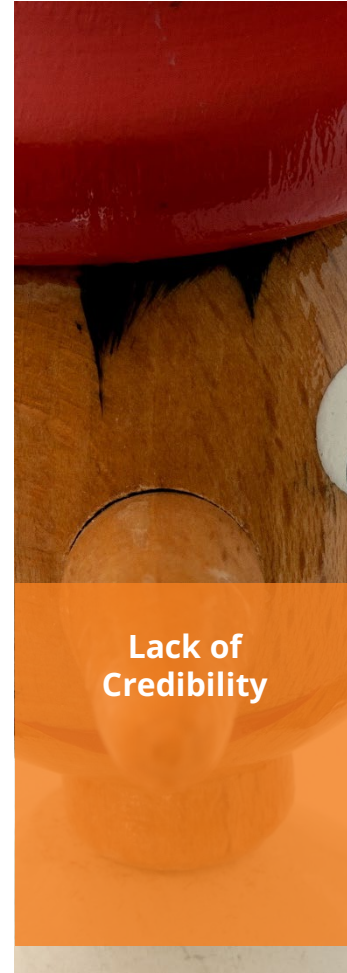
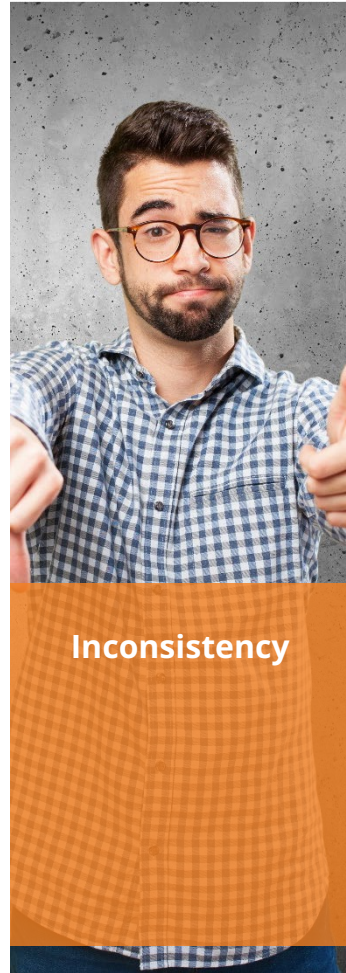
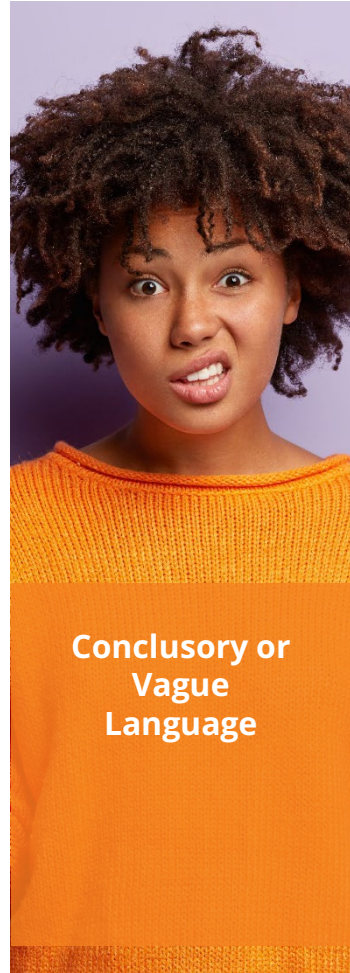
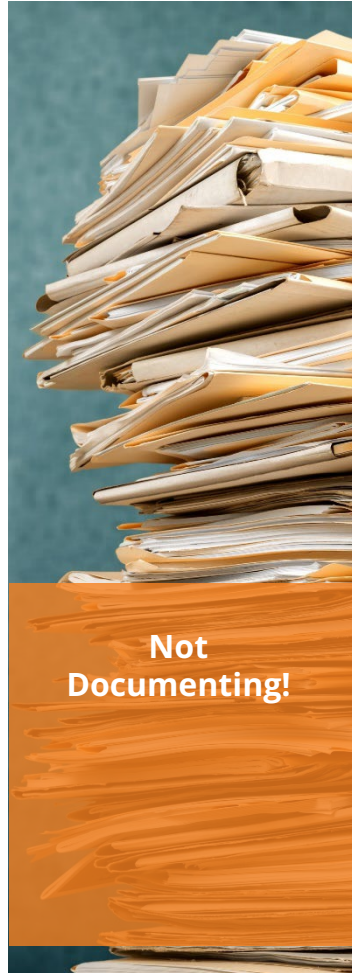
- Avoid confrontation
- Time limitations
- Fear of and actual inconsistencies
- Insufficient information
- Not knowing what to do or how to say it
- Prior culture
- Lack of accountability
- Overall fear



Dealing & Communicating With Employees Effectively

- What is “effective” communication in the counseling arena?
 - Day-to-day feedback, bad and good
 - Regular and honest performance evaluations
 - Regular coaching and counseling, verbal and written
 - Written termination communications.
- **TRANSPARENCY!**

PITFALLS IN **EMPLOYEE COACHING,** **COUNSELING AND DISCIPLINE**



HOW TO COUNSEL & COACH

- No magic form; emails or text messages will do
- Counsel frequently, and be constructive
- Close in time to behavior
- Be honest, but respectful and understanding
- Explain problems thoroughly
 - Write like a jury/judge/arbitrator will one day read the communication
- **Be respectful**
- Use full names with witnesses, document time, place, and attendees with meetings
- Anticipate issues and communicate internally accordingly
- If dealing with a bi-lingual employee, use their language, but make sure to attach English version as well

- Make sure copies get to personnel file!



DOCUMENTING “VERBAL” **COACHING AND DISCIPLINE**



Address with “catch up”
documentation and
communications



Provide examples, not just
summaries



Document verbal warnings
with memo to file, emails to
HR, or even text messages

- Ideally everything will have time
stamp to set timeline
- Does not need to go to
employee



Verbal warnings should (but
don't always) precede written
warnings



DOCUMENTING **WRITTEN COUNSELING**

- Explain problems thoroughly – *assume a third party will read*
- Use constructive not demeaning language
- Write in the “second person,” direct the counseling TO the employee; don’t write about them as if they are not there
- Provide examples, not just summaries



HOW MANY WARNINGS **BEFORE ENOUGH IS ENOUGH?**

- No magic number; whatever necessary to address the issue and allow time to correct
- Depends on length of employment, Company's tolerance of the behavior, and how other employees treated
- Especially with longer term employees, verbal warnings should proceed written, and provide detailed final written warning if possible, and mean it!
- Employees should not be surprised or confused about discipline or termination. Before it happens.
- **And then – written termination report!**



Dealing with Employee Malaise



Most of their well-being worsened or stayed the same — but their bosses disagree: new survey

Published Sun, Jun 25 2023 9:53 PM EDT

Goh Chiew Tong
@CHIEWTONG_G

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The Great Gloom In 2023, Employees Are Unhappier Than Ever. Why?

Shutterstock.com
bambooHR's Employee Happiness
by Benchmarks Employee

The C-suite is so focused on the macro picture of their organizations, that it's difficult for them to see the macro picture of their employees' well-being.

Dan Schawbel
MANAGING PARTNER, WORKPLACE INTELLIGENCE

shows that executives are
distant from the reality of the
Dan Schawbel, managing
Workplace Intelligence told

Employee malaise in 2023

- Is it really about employee malaise . . . or the state of the world in general?
- Also keep in mind general
- job market an employee
- demographics

Mental Health and Suicide

- 2023 shows a growing mental health crisis in the US
- Suicide rates are up after two years of decline pre-pandemic
- **What can we do about this??**
- Make sure to reach out if you see employees who may need help.
- Offer EAPs whenever possible
- Encourage employees who may be struggling to seek help
- Watch for employees who may need help with substance abuse
- Consider offering leaves of absence in place of discipline when/if appropriate
- National Suicide Prevention: 988





Welcome to the Debate
Remote v Return to
Office Work



Here's a list of major companies requiring employees to return to the office

Big Push for Corporate Return to Work



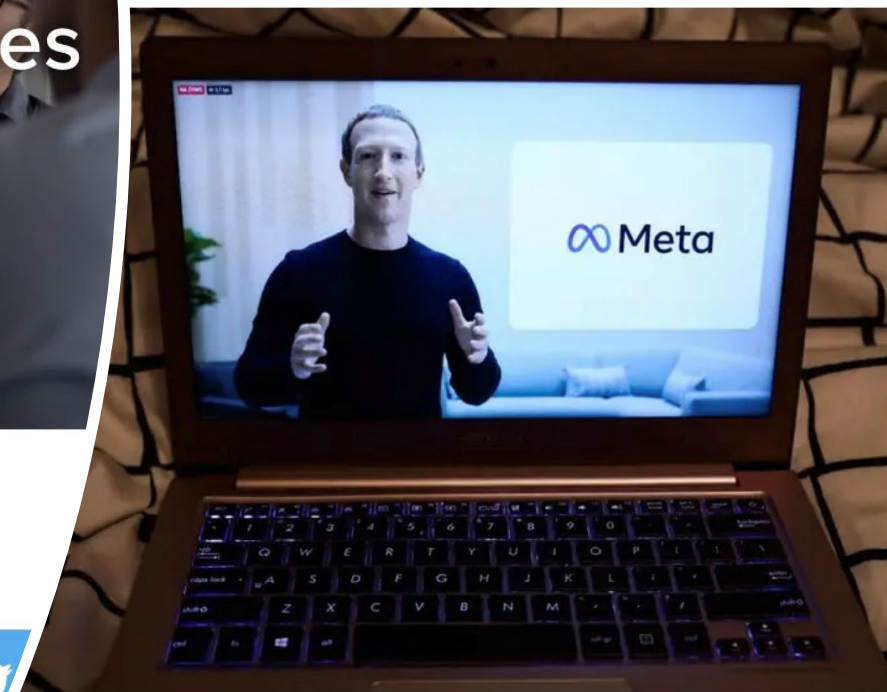
CEOs Want Employees Back in the Office

by Marguerite Ward, Emily Canal, Rebecca Knight, and Andrea York Jul 19, 2023, 1:23 PM ET

Download the app

2023 - 2024

by Patrick DiDomenico | July 17, 2023



Mark Zuckerberg is the CEO of Meta. NurPhoto/Getty Images



Credit: Adobe stock

ANALYSIS

Time for 'California to Come Back': Firms Turn Up the Heat on Office Requirements

Law Firms, Too

Pretty much across the country, mid – size on up
“It’s time to come back!”

Legal Industry | Competitive Intelligence | Legal Industry | Employment

More US law firms make four-day office work week mandatory

David Thomas

August 10, 2023 6:59 AM PDT · Updated 2 months ago



Why the push to return?

- Leases going to waste/offices sitting empty
- Loss of productivity
- Loss of morale
- Loss of teamwork
- Loss of “face time” with peers, mentors/mentees, customers
- Loss of certain interpersonal, social skills

What is the reality of remote vs office work?

- For many white collar businesses, including law firms, 2020 was one of our industries' most productive years.
- Some employees are very productive working independently, remotely. Others may need more of a push or to work with more hands on direction or in a team. May depend on the kind of work or the employee.
- Many teams work very well in a "virtual" team setting, indeed, it's sometimes easier to see those who have become lost or distracted on a zoom screen. But probably works better for those more tech savvy/less tech resistant.
- Always some value to face time. Always some jobs better suited for in person work.





Back to office quit



Return to the office? These workers quit instead.

wp Washington Post · 3 weeks ago



Will Employees Quit if They Are Forced Back into the Office?



If you'd rather quit your job than return to the office, there are...

And why are some SO adverse to coming back?

- Long commutes/gas costs
- Mental health
- Child care
- Productivity issues
- Lack of appropriate clothes
- This is their routine now

So what is the solution?



- Maybe not one size fits all – try not to be rigid
- Remote work can be still be “earned” and re-evaluated”
- Different rules may work for different jobs or employees (don’t form bad policies around one or two bad employees)
- Keep in mind the employer’s obligation to accommodate for disabilities, pregnancy, religion, and to engage in interactive process when necessary

A person wearing a dark blue long-sleeved shirt is holding a white ceramic mug with both hands. The mug has the text "LIKE A BOSS" printed on it in a bold, black, sans-serif font. The person's hands are visible, and they are wearing gold rings on their fingers. The background is a plain, light color.

Wrap Up: How do we prepare ourselves for 2024?

- Ground yourself every day
- Come from a place of respect and fairness
- Take a lot of deep breaths
- Listen more
- Thank your employees daily for what they do
- Let go of some of those daily frustrations
- Give yourself grace. What you do is hard. Thank yourself daily as well



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Upcoming Webinars



Benefits Curve: How to Hit Back When You're Hit with a Massive Renewal

Benefits Captives & ICHRAs

October 26, 2023, 11:00 -Noon PT [REGISTRATION LINK](#)

2023 Compliance Webinars

Fiduciary Responsibilities Under the CAA & Gag Clause Prohibition

November 16, 20 23 11:00 – Noon PT [REGISTER FOR THE SERIES](#)

Risk Control Series Webinar: Preventing Illness and Indoor Heat Injuries

November 7, 2023 | 11 AM– Noon PT [REGISTRATION LINK](#)

Annual Employment Law & Benefits Update

December 6, 2023 8:30 AM to 11:30 AM PT [REGISTRATION LINK](#)



Q&A

THANK YOU!