

# AUDITING HR PRACTICES FOR RISK MANAGEMENT

Presented by:  
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## **AUDITING HR PRACTICES FOR RISK MANAGEMENT**

To obtain and maintain a seat in the “C-Suite” Human Resources needs to be an indispensable business partner with the other C-Suite members. HR has to be seen as an equal by those others who report to the CEO – such as the CFO, CTO, CMO, etc. Thus, HR can’t be known as a department that always says “no” to a business proposition such as a reduction in force or a termination. Business executives want an HR partner who helps them do what they need to do to accomplish the organization’s strategic goals.

Businesses are risk adverse and need C-Suite partners who are risk identifiers who then work to minimize risk and to continuously improve performance. Risk in HR can mean exposure to expensive, time consuming litigation or administrative claims, bad publicity, high turnover and lack of top talent. HR professionals can help their companies avoid risk by ensuring that all of their own HR practices are legally compliant. Many claims could be easily avoided by a critical examination of HR practices to ensure they comply with the law and “best practices.” Furthermore, HR should know how its personnel and services are viewed by the other departments and its quest for continuous improvement.

### **I. WHY PERFORM AN AUDIT?**

Lawsuits can result in rusty HR practices that are sometimes unknown to even the most sophisticated HR leaders. Thus, HR must ensure its own house is in order to be a useful business partner to others in the C-Suite. Whether you are new to a company or have been the head of HR for years – you always need to ensure that your HR practices are top notch, compliant with the rapidly changing laws, and with HR “best practices” as those evolve. In addition, HR needs to assess its effectiveness as a business partner. How is HR’s customer service performance? Is the recruiting process resulting in top talent? These critical areas are all ripe for auditing.

Unbeknownst to employers, their non-competes have been illegal due to HR’s lack of familiarity with Oregon’s 2008 new law severely limiting non-compete agreements. Wage and hour suits arise from noncompliant payroll practices. Discrimination or harassment suits are hard to defend if there is a lack of documentation in personnel files. Wrongful termination claims arise from untrained managers who are unaware of new laws, such as whistleblowing protections. If HR mistakes result in a multi-million dollar verdict or even a six figure legal bill to win a case – the CEO isn’t going to be happy.

Often times, HR is viewed negatively by the other departments it services. This could be due to lack of accessibility, lack of responsiveness, inaccurate or misleading information provided by HR, and an overall lack of business partner mentality. It is this last problem that is likely most damaging to HR. Managers and supervisors simply will not contact HR to obtain needed assistance if they view HR as an impediment to achieving their business goals, rather than a business partner who helps them succeed.

In customer service performance, many HR departments fall flat on their faces. HR may have 100% compliance with the law and “best practices,” but if HR is not a responsive customer service focused department, it will fail to gain critical support within the organization.

Audits are an important tool to help HR stay on the cutting edge. There are generally three forms of audits that can be performed by the HR department: First, legal compliance, second, HR “best practices,” and third, customer service and performance.

No department likes having an outside auditor evaluate their practices as mandated by another department or the CEO. Thus, HR can and should, perform self-audits to critically evaluate its performance in the three audit areas. HR should embrace the audit process striving for continuous improvement in its compliance with the law, “best practices” and customer service. HR professionals must have a willingness to evaluate themselves, acknowledge deficiencies, and most importantly, to make or influence the necessary organizational changes to maintain their position as valued strategic business partners. Thus, an audit without the prerequisite commitment to continuous improvement is useless. HR must be ready to acknowledge and remedy any deficiencies discovered and embrace change.

## **II. WHAT IS AN HR AUDIT?**

“Historically, HR management programs have not been the prime targets of internal or external auditors. However, audits have begun to focus more on HR programs due to organizational risks and expenses.”<sup>1</sup>

An audit is by definition an “inspection of an organization’s practices internally or by an outside third party.” The Merriam Webster Dictionary further defines “audit” as “a methodical examination and review.”

The origin of the word “audit” comes from the Latin term “auditus,” which is defined as the “act of hearing.” “Hearing” requires listening. Thus, an important aspect of any audit is that the auditor(s) listen carefully to those involved in the audit process: HR staff, line employees, benefits staff, business partners in other departments, outside vendors such as legal counsel, HRIS providers, benefits vendors, etc. If during the audit process, the HR leaders do not listen and ask probing questions, the audit will be ineffectual. People are born with two ears and only one mouth for a reason.

Thus, the first consideration is to determine which type of an audit is needed and whether it can adequately be performed with in-house staff or needs the assistance of outside experts. Then collect the data, analyze it and respond with corrective action as needed.

Not only will an HR audit identify the need to change policies or procedures, it can also identify ways of operating more efficiently or at a reduced cost. Such outcomes are

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<sup>1</sup> “Auditing Human Resources” 2<sup>nd</sup> Ed., The Institute of Internal Auditors Research Foundation (2010)

critical in these days of managing scarce corporate resources, shrinking HR staff size, and renewed focus on the bottom line. Since HR is a cost center, rather than a revenue center, it is even more critical for HR to be operating lean.

### **III. STEPS TO PERFORMING AN AUDIT**

Don't assume any of your HR practices are in compliance – question everything. Here's the 5 steps you should take to undertake a proper HR audit:

1. Determine the Scope of the Audit
2. Determine Who Will Perform the Audit.
3. Collecting the Data
4. Audit Results Assessment
5. Develop an Action Plan

#### **Step 1: Determine the Scope of the Audit.**

The first step is obviously to determine the scope of the audit. Will it be strictly a legal compliance audit? Will it include a review of HR "best practices? Will it extend to a customer service audit? It is difficult to do all three at once as the procedures and involved persons are different for each. However, frequently a legal compliance and HR "Best practices" audit can be combined into one. It's generally the best place to implement an audit program. It helps determine whether HR's own "house is in order" before reaching out to others outside of the department function to determine how they view HR's functions, accuracy and customer service. The compliance/best practices audit can be performed on a routine basis, such as every one to three years, depending upon the nature and extent of changes in the HR legal atmosphere, such as new state, federal or local laws. It should become a regular part of HR's function and HR should initiate these audits rather than waiting for a call for such an audit from CEOs, other department heads or a company's board of directors after a concern has arisen. It is critical for HR to embrace such an audit and not be defensive or attempt to hide or defend problem areas.

The scope of an audit will be the same whether the company is a small or large employer. While generally larger employers have more extensive and sophisticated HR staff, many times their policies and procedures are cumbersome and out of date due to the sheer volume of employees. Many large companies operate in multiple states or even internationally driving more complexity in the myriad of laws which apply. Conversely, a small employer may not have a professional HR staff and usually relies heavily upon outside vendors, many of whom are not fully familiar with state and federal laws and HR "Best practices." These smaller employers may not have customized policies and procedures that work for every situation. Many employers have found out much to their dismay that the advice, forms and procedures advised by their outside consultants do not follow the law in their particular states of operation or do not reflect HR "Best practices." Small employers have few resources and may be downloading forms, policies and procedures from inapplicable resources on the Internet, and

unbeknownst to them, violating the law on a regular basis. Thus, both large and small employers may need outside professionals to design and execute the audit.

There are many factors to evaluate in deciding the type and scope of an HR audit. Is the timing right or are there other corporate or HR initiatives that take precedence? What is the extent of the resources that will be required? Is there an organizational commitment for those resources at this time? Consideration needs to be given to availability of HR staff and vendors, other departments' staff, the cost, and availability of documents. HR must evaluate these factors in conjunction with other corporate leaders and obtain the required buy-in before launching an audit. This is especially true for an outward focused performance audit. Few audits can be performed entirely within the HR department. For example, even an audit of wage and hour practices involves delving into proper classification issues which requires the assistance of the departments where those jobs are located.

A decision also must be made as to whether outside vendors' practices will be included in this audit. This could include providers of payroll, HRIS, benefits, EAP, insurance and other HR consultants. If it is impractical to complete a full scope audit, select key functions to audit one at a time. Establishing a clear scope of the audit is necessary before determining who will perform the work.

## **Step 2: Determine Who Will Perform the Audit.**

Do you have the expertise to do it internally? If not, hire an outside provider. However, ensure that the outside provider has the requisite expertise to perform the type of audit that you have selected. There are national and local HR consultants and lawyers who provide auditing services. However, it will be critical to determine whether they have the necessary legal expertise to perform a compliance audit as well as an HR "best practices" audit. Keeping in mind that those audits are entirely different from a customer service performance audit, it is critical to delve into the depth and breadth of experience of the consultant in the particular field.

HR should interview consultant's prior customers regarding satisfaction, and review the tools and processes that the outside provider proposes to use. An agreed upon scope and cost of the audit should be arrived at before the work begins. It is critical to determine what inside resources will be needed to complete the audit with the outside providers so that sufficient resources may be devoted to the audit to ensure its success. Another option is to use a consultant to prepare for the audit, but collect the data with your own HR staff.

As noted in a recent SHRM article: "The organization's HR professionals can perform an audit in-house if they have the expertise, the time, a willingness to objectively

acknowledge inadequacies in current procedures and, most importantly, the clout to make or influence the necessary organizational changes.”<sup>2</sup>

If an outside auditor is under consideration, evaluate the following:

- Compliance expertise in your state’s and local laws
- Familiarity with your industry
- Prior auditing expertise

HR may be able to audit many of its functions internally so that only portions of an audit need to be outsourced. For example, compensation consultants will likely be needed for a truly independent and comprehensive audit of compensation programs. A lawyer may be the best resource for auditing wage and hour practices, employee classification and other legal compliance issues.

#### **A. Compliance/HR Practices Best Audit**

An important factor to evaluate in determining who should perform the audit is the risk of discovery of the audit findings during subsequent litigation or a government investigation. A protection against this problem is to perform HR audits, whether conducted by outside counsel, another outside vendor or internally, under the direction and control of inside or outside legal counsel so as to attempt to preserve the attorney-client privilege nature of the work. The last thing an employer wants to face is a jury trial in which the results of an audit – which will find compliance problems – is “Exhibit A” in the plaintiff employee’s case against the company.

If you determine the audit can be done internally with HR staff, you must determine whether you do it alone, with a team or delegate it to others. Do not allow department heads to audit their own functions. They may think they are doing everything correctly and will not recognize problem areas or may not be as vigorous in assessing their own practices. For example, you would not want to leave a review of payroll practices to the person in the HR department who administers payroll. They will assume they are doing everything correctly and may not pick up on inadvertent errors or misunderstandings of the law. Someone from a different function within HR or an outside vendor should handle that audit alone or in conjunction with the payroll administrator. It is important that the greatest amount of independence in the auditing process be followed. An HR leader must obtain buy in from all other HR staff and their full participation and commitment to the audit process before beginning the process. On the other hand, if HR is performing a customer service audit it will necessary involve the input from and cooperation of managers outside of the HR department as well as line employees.

Another consideration in selection of an auditor(s) is their need to access confidential information during the audit process. There may be legal restrictions on access to

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<sup>2</sup> “Conducting Human Resource Audits” SHRM Tools, April 8, 2013; Author: Teresa A. Daniel, [www.shrm.org/templatestools/toolkits/pages/humanresourcesaudits.aspx](http://www.shrm.org/templatestools/toolkits/pages/humanresourcesaudits.aspx)

confidential personnel or medical information. These restrictions need to be addressed before data collection begins.

**Part B. HR Customer Service and Performance Audit**

HR could seek outside assistance to design the audit and to establish ROI and metrics for the outcomes of the audit. Perhaps, an in-house audit department or someone familiar with auditing best practices within the finance or accounting department could assist HR in developing an appropriate assessment tool to test HR customer service and performance.

Outside vendors could be of assistance in establishing an audit tool or in conducting the audit in a manner so as to preserve confidentiality of the responses. This will hopefully increase the ability to receive candid audit results in a confidential manner.

**Step 3: Collecting the Data.**

For each function to be audited in a compliance audit a checklist of federal, state and local legal requirements and HR “best practices” should be created. Cross-check your practices, forms, policies and procedures against those requirements.

**Part A: Legal Compliance/HR Best Practices Audit**

Usual areas of inquiry in a compliance/best practices audit include the following:

- Personnel Policies
- Personnel Procedures
- Employee Handbooks
- Recruitment and Onboarding
- Advertising and Solicitation Methods
- Outreach/Diversity/Affirmative Action
- Job Descriptions
- Interview Practices
- References Practices
- Pre-Employment Medical Examinations and Testing
- Hiring and Selection Criteria
- Written Employment Contracts/Offer Letters
- Promotional Procedures
- Compensation
- Benefits
- Injured and Ill Employees (ADA/Leave Laws/Workers Comp)
- Performance Evaluations
- Documentation
- Discipline
- Employee Separations
- Personnel Records
- Supervisor Training/Education

Involuntary Reductions in Force  
Insurance (i.e., EPLI)  
Discrimination and Harassment  
Disability Accommodation  
Immigration Compliance  
Wage and Hour  
Military Leaves  
Workplace Violence  
Attendance Policies and Procedures  
Employee Compensation  
Consistency and Uniformity of Treatment  
Labor Relations  
NLRB Compliance for Non-Union Employees  
Safety  
Ethics  
Benefits Costs & Reform Compliance  
Social Networking  
HR Outsourcing  
HR Technology  
HRIS  
Employee Privacy  
Personnel Files  
Documentation/Performance Evaluations  
Record Retention  
OFCCP Compliance  
Diversity Programs  
Independent Contractors

**Part B: HR Customer Service and Performance Audit**

This type of audit focuses on an objective look at the quality of HR's support to other business partners. These include all of the organization's departments which HR serves. Not only should managers and supervisors be involved in this type of an audit, but line employees in other departments who interact with HR will need to participate. Of course, the questions posed to line employees will be much different than those posed to managers and supervisors. To managers and supervisors, HR is a resource to achieve their department's business goals. For line employees, HR should be a place that they feel safe in discussing problems, concerns or questions.

In this type of an audit, comprehensive questionnaires and surveys including personal interviews with other stakeholders are the only way the functions can be properly evaluated. Seeking input from other managers and employees about the quality and effectiveness of services HR provides, these types of audits help HR determine how it can help accomplish the business objectives of the organization in support of other departments. The focus of this type of audit is not on legal compliance, but on

continuous improvement of HR's function. It focuses on service quality and HR effectiveness as viewed by the rest of the organization.

The audit checklist is completely different and can include the following:

- Responsiveness
- Confidentiality
- Accessibility
- Accuracy
- Usefulness of Advice
- Assessment of Overall Effectiveness
- Employee Retention/Turnover
- Employee Satisfaction
- Employee Talent Level
- Understanding Customer Needs
- Succession Planning
- Baby Boomer Retirement Impact
- Employee Attitude/Engagement
- Fraud Exposure
- Business Partner Mentality
- Flexibility
- Change in Management
- Credibility
- Communication Effectiveness
- Effectiveness of Department Organization
- Quality of Employee Treatment
- Manager Training and Education
- Perception of Fairness
- Reward Systems
- Personnel Policies and Work Rule Understanding and Consistency
- Professional Development Opportunities
- Safety and Wellness
- HR Strategic Planning
- Workforce Planning
- Manager Training

This type of an audit should primarily consist of open-ended questions in an anonymous survey format and preferably supplemented by personal interviews. Again, it is most difficult for HR to conduct this type of audit on its own without outside assistance due to the importance of the respondents' feeling that their input will be kept confidential and that action will actually be taken as a result of the audit findings.

Many times these types of audits include benchmarks or return on investment metrics. These could include items such as turnover, number of open positions, timeliness in filling positions, employee satisfaction, the number of internal complaints, administrative agency complaints, lawsuits; absenteeism rates, career advancement; employee

engagement, satisfaction with benefit packages, and satisfaction with compensation packages. (See “Auditing Human Resources” *id.*, Appendix D, HR Metrics.)

It is critical that the entire organization embrace the importance of such an audit. HR must obtain advance commitment from all managers involved to cooperate and take the project seriously. HR must be able to show the strategic business need to perform such an audit, the types of changes that will result and how the information can assist the organization in meeting its strategic business objectives. Absent such justification and commitment by all involved, the audit will fail due to lack of cooperation of other departments. (See “Auditing HR” *id.*, Appendix H, Sample HR Audit Program.)

#### **Step 4: Audit Results Assessment.**

The only thing worse than doing no audit is to do nothing with an audit’s results. A critical part of the audit process is assessing the data and reporting findings. In a compliance/best practices audit, the findings should pinpoint areas of potential non-compliance. For example, the audit might have revealed misclassification of certain non-exempt positions as exempt. The HR department would work with the particular functional department and perhaps legal counsel to re-classify the positions correctly under the law. The audit might have discovered a lack of proper documentation of counseling sessions in personnel files by supervisors. While this is not a legal compliance issue, it certainly does not reflect HR best practices. HR might embark upon a program to provide further training for managers on proper documentation of employee counseling sessions or provide simple forms that might incent the managers to document more frequently. If the only result perceived is more “HR rules, paperwork, or bureaucracy,” the audit will also have failed.

In a customer service audit, results may show that the department’s customers do not feel they receive timely advice and assistance. HR has to be prepared to address that reality (or the perception), in responding to the audit results. As an outcome, HR might develop a different model for responding to customer inquiries to improve responsiveness. Metrics should be established to help determine whether any new procedures implemented actually help solve the problem and improve actual or perceived responsiveness.

Failure to take action to respond to and improve compliance, HR best practices or customer service will negatively impact HR. HR will be worse off in the eyes of other organization leaders than if it had not done an audit at all. Other stakeholders in the organization will complain about the waste of time and expense incurred during the audit if real change is not made in response to the audit findings. I have yet to see an audit of any type of HR practices that found 100% compliance with the law, HR “best practices,” or that discovered 100% satisfaction with HR by others within the organization. Thus, HR has to be prepared for the audit to identify challenges and to implement, even with limited resources, changes to respond to and address the issues raised by the audit.

The top HR leaders should become intimately familiar with the audit results and share them first within the department. Only share the results with others after an action plan is developed to address the findings.

#### **Step 5:        Develop an Action Plan.**

After critically assessing the results of either an internal or external audit, HR must develop an action plan to address any deficiencies exposed by the audit. It will take a team approach to address some of the issues identified. Some assistance may be needed from outside advisors, legal counsel or other departments both to develop and execute the action plan.

For each problem area identified in the audit, HR needs an action plan to tackle the issue. This should be a comprehensive, written plan that is relentlessly pursued until fully executed. It is likely that all issues cannot be addressed simultaneously. Thus, the first step is to prioritize the solutions. The plan will only succeed if it is specific and monitored. It should contain the specific action item i.e., some steps to correct the problem. Some of this will be short term and others long term. Next is identifying the personnel, experts and other resources needed to implement the solution.

Last, a timeline for when the action items will be completed is critical so that success can be measured. Periodic reports on progress should be provided. Then follow up or metrics are needed to measure success of the solution.

### **IV.    CONCLUSION**

In conclusion, HR leaders can retain or improve their position in the C-Suite and business partnerships within the organization by critically assessing their performance on a routine basis. HR audits are in integral part of such plans for continuous improvement. HR leaders should not wait until another member of the C-Suite suggests that an HR audit be performed due to lack of customer service or the filing of a wage and hour class action lawsuit. A comprehensive and honest assessment of HR's strengths and weaknesses will improve not only the HR function but will improve the organization's abilities to meet its business objectives with its most important resource – its people.

# Auditing HR Practices for Risk Management

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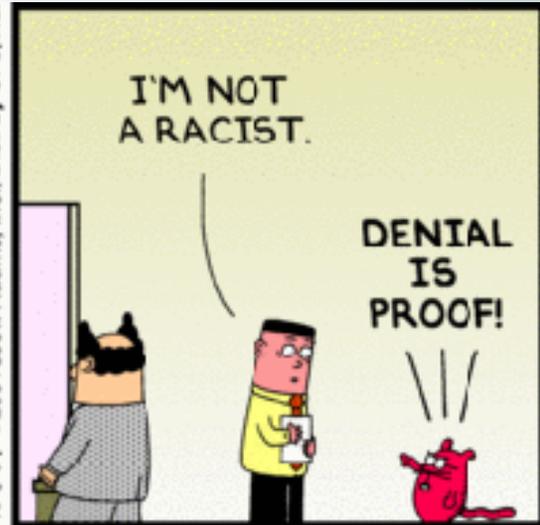




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# Listening





- Compliance
- HR Best Practices
- Customer Service / Performance



## 5 Steps

1. Determine the Scope
2. Determine Who Will Audit
3. Collect the Data
4. Assess the Results
5. Develop an Action Plan



## STEP 1: Scope

- Compliance / Best Practices or Performance
- Combined Compliance & Best Practices
- One or More
- Frequency



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## Factors to Consider

- ❖ Timing
- ❖ Other Corporate or HR Initiatives
- ❖ Required Resources
  - Internal Staff
  - External Vendors
  - Funding
- ❖ Disruption to HR or Other Departments
- ❖ Cost







## STEP 2: Who Will Audit?

- HR Staff
- Other internal resources such as auditing department
- Outside Provider
  - Legal
  - Consultant
- Their Role
  - Program Design Only
  - Perform the audit alone
  - Perform the audit with HR



## STEP 2 continued: Factors to Evaluate

- Expertise in State/Local Laws or Multi-State
- Industry Familiarity
- Prior Experience – Depth & Breadth
- References from Prior Customers



## Audit Scope

- Internal Practices Only
- External Vendors
  - HRIS
  - Benefits
  - Consultants
  - EAP



### STEP 3: Collecting the Data (1 of 4) HR / BEST PRACTICES

- Personnel Policies
- Personnel Procedures
- Employee Handbooks
- Recruitment and Onboarding
- Advertising and Solicitation Methods
- Outreach/Diversity/Affirmative Action
- Job Descriptions
- Interview Practices
- References Practices
- Pre-Employment Medical Examinations and Testing
- Hiring and Selection Criteria
- Written Employment Contracts/Offer Letters



## Step 3 – Collecting the Data (2 of 4)

- Promotional Procedures
- Compensation
- Benefits
- Injured and Ill Employees (ADA/Leave Laws/Workers Comp)
- Performance Evaluations
- Documentation
- Discipline
- Employee Separations
- Personnel Records
- Supervisor Training/Education
- Involuntary Reductions in Force
- Insurance (i.e., EPLI)



## Step 3 – Collecting the Data (3 of 4)

- Discrimination and Harassment
- Disability Accommodation
- Immigration Compliance
- Wage and Hour
- Military Leaves
- Workplace Violence
- Attendance Policies and Procedures
- Employee Compensation
- Consistency and Uniformity of Treatment
- Labor Relations
- Safety
- Ethics



## Step 3 – Collecting the Data (4 of 4)

- Benefits Costs & Reform Compliance
- Social Networking
- HR Outsourcing
- HR Technology
- HRIS
- Employee Privacy
- Personnel Files
- Record Retention
- OFCCP Compliance
- Diversity Programs
- Independent Contractors



## B: Performance/Service Audit (1 of 3)

- Responsiveness
- Confidentiality
- Accessibility
- Accuracy
- Usefulness of Advice
- Assessment of Overall Effectiveness
- Employee Retention/Turnover
- Employee Satisfaction
- Employee Talent Level
- Understanding Customer Needs



## B: Performance/Service Audit (2 of 3)

- Succession Planning
- Baby Boomer Retirement Impact
- Employee Attitude/Engagement
- Fraud Exposure
- Business Partner Mentality
- Flexibility
- Change Management
- Credibility
- Communication Effectiveness
- Effectiveness of Department Organization



## B: Performance/Service Audit (3 of 3)

- Quality of Employee Treatment
- Manager Training and Education
- Perception of Fairness
- Reward Systems
- Personnel Policies and Work Rule Understanding and Consistency
- Professional Development Opportunities
- Safety and Wellness
- HR Strategic Planning
- Workforce Planning



## STEP 4: Assessment of Results





**CATBERT: EVIL DIRECTOR OF HUMAN RESOURCES**

ACCORDING TO THE EMPLOYEE SURVEY, YOU WANT FEWER BENEFITS.



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I DON'T REMEMBER DOING A SURVEY.

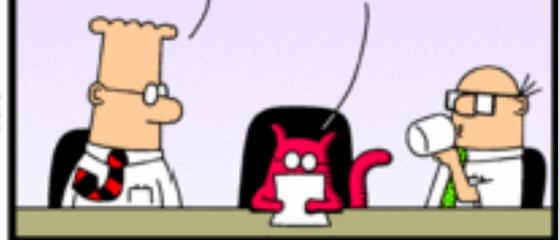
WE POLLED A RANDOM SAMPLE.



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THAT SEEMS A BIT SUSPICIOUS.

IN OTHER FINDINGS, YOU WANT MORE VERBAL ABUSE.





## Step 4: Assessment of Results

- Critically Examine Results
- Share With Others
  - HR First
  - Other stakeholders
- Don't Defend/Offer Excuses
- Offer Solutions



## STEP 5: Develop an Action Plan

- Steps to Correct Problem
- Who is Responsible
- Due Date
- Assessment of Solution Success
- Metrics
- ROI
- Prioritize – *Can't do it all*



Remember . . .

Your best resources are your Human Resources:

*Your Employees !*



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# THANK YOU

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Chrys Martin focuses her practice on employment law and employee benefits issues. She offers her clients 31 years of experience in complex employment and ERISA litigation, including class actions. Chrys applies her depth of knowledge in litigation to counseling employers and training management in pragmatic risk avoidance. Her practical approach to difficult employment issues is also grounded in prior hands-on management and human resources experience.

Chrys' employment and labor experience spans the full range of employer concerns, from discrimination and harassment to wage and hour issues to union negotiations and arbitrations. She regularly assists clients with employee handbooks and employment contracts, and has managed numerous personnel investigations and employment practices audits. Her benefits work includes an array of ERISA and fiduciary issues, including self-funded plans and designing early retirement programs.

### Practice Highlights

- Obtained defense jury verdicts in sexual harassment and age discrimination cases
- Obtained multiple jury and court trial verdicts, directed verdicts, and summary judgments in ERISA and non-ERISA benefits cases
- Prevented wage and hour class-action pre-litigation, no payments
- Co-lead litigation team in then-largest investment manager fraud case in U.S. history – ERISA and fiduciary liability
- Prevailed at summary judgment in wage and hour class action

### Representative Experience

#### Benefits counseling for government, universities and private employers

Design and implement early incentive retirement programs for government and private employers, as well as advise businesses on staffing and benefits issues in the context of mergers and acquisitions. (Ongoing)

#### Best practices audits and training

Conduct employment practices audits to determine compliance with state and federal laws and train managers and staff on human resources best practices for restaurant, retail, manufacturing, and start-up clients. (Ongoing)

#### Department of Labor investigations for construction clients

Negotiate favorable settlements in Department of Labor investigations regarding prevailing wage, minimum wage, and overtime violations for major construction industry clients. (Ongoing)

#### Develop and defend employer affirmative action plans

Represent utilities, manufacturers and other employers in audits determining compliance with federal affirmative action programs conducted by the Office of Federal Contract Compliance Programs (OFCCP), as well as develop and implement employer affirmative action plans. (Ongoing)

#### Employee handbook development for local and national clients

### EDUCATION

**J.D., Lewis & Clark Law School, 1981, cum laude**

- Cornelius Honor Society

**B.A., Oregon State University, 1975, with honors**

- Phi Kappa Phi Honor Society

### RELATED PRACTICES

Employment, Labor & Benefits

Employment Litigation

Employment Counseling

ERISA Litigation

Startups & Emerging Companies

Employee Benefits

Health Care

Food, Beverage, Restaurants & Hotels

Food & Beverage

Tax-Exempt Organizations

### ADMITTED TO PRACTICE

Oregon, 1981

U.S. District Court District of Oregon, 1981

Draft and develop strategic personnel handbooks that address new employment law rulings by the National Labor Relations Board for start-ups to large corporations in manufacturing and retail industries. (Ongoing)

### **Labor counseling and arbitrations**

Negotiate neutrality agreements and addendums to master labor agreements; handle labor arbitrations and collective bargaining negotiations; defend union organizing campaigns. (Ongoing)

### **Weir v. Capers**

Defended Capers Café & Catering Co. from a proposed FLSA collective action and a FRCP 23 class action that alleged federal and state wage and hour violations. Capers Café and DWT prevailed on summary judgment on the majority of claims and then resolved the case by a small settlement, without class action or collective action certification. (D. Ore. 2012)

### **Professional & Community Activities**

- Member, 2003-present; General Counsel, 2005 – Portland Human Resources Management Association
- Fellow, American College of Employee Benefits Counsel, 2001-present
- International Foundation of Employee Benefits, 2000-present
- Chair, Law Institute Committee 2006-2008; Chair, Employment Law Committee, Board of Directors, 1997-2000 – Defense Research Institute
- Former Chair, Civil Rights Section; Former Chair, Affirmative Action Committee – Oregon State Bar Association
- Board of Directors, 1994-1999; President, 1999 – Oregon Association of Defense Counsel
- Board of Directors, 2008-present; Secretary, 2012-2013 – Portland Center Stage
- Board of Directors, Cascade AIDS Project, Inc., 2005-2008

### **Professional Recognition**

- Named one of "America's Leading Lawyers for Business" in Employment by Chambers USA, 2005-2012
- Louis B. Potter Lifetime Professional Achievement Award, DRI, 2012
- Awarded AV rating by the Martindale-Hubbell Law Directory since 1994
- Named one of the "Best Lawyers in America" in Labor and Employment Law by Best Lawyers, 2007-present
- Selected to "Oregon Super Lawyers" in Employment Law, Thomson Reuters, 2006-2012
- Selected to "Oregon's Top 25 Women Super Lawyers," Thomson Reuters, 2008-2012

### **Advisories**

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03.15.13	Portland Requires Employers to Provide Paid Sick Leave Starting in 2014 to Employees Who Work in City
12.18.12	EEOC's Tough Enforcement Stance Against Criminal Background Checks
09.24.12	NLRB Continues to Challenge Restrictions by Employers on Employee Communications
05.22.12	Major Changes in Routine Handbook Policies Required
12.14.11	New Employment Laws for 2012: Oregon, Washington, and California
08.26.11	Guidance on New Disclosure Requirement for Group Health Plans and Insurers: Introducing the "SBC"
07.05.11	Good News For Employers: New Law Makes Securing Employment Arbitration Agreements Easier

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### **News**

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09.06.12	Chrys Martin, Partner in the Portland Office of Davis Wright Tremaine LLP, Receives Major Recognition From Civil Litigation Defense Organization
06.07.12	Chambers USA Recognizes Davis Wright Tremaine LLP in Multiple Practice Areas and Names 89 Attorneys "Leading Lawyers For Business"
03.29.11	Davis Wright Tremaine LLP Adds Top Employment Lawyer in Portland, Continues Growth in All Markets

## Events & CLEs

06.04.13	Supervisor's Bootcamp: Learn How to Avoid Retaliation Claims Portland CLE
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## Presentations

02.13.13	"Non-Competes and Trade Secrets," and "Red Flags – A Panel Discussion with The Experts," Small Business Employment Law Issues, The Seminar Group, Portland, Ore.
11.01.12	"Small Business and Start-Up Labor & Employment Issues Part II: Common Traps For The Unwary," The Seminar Group 4th Annual Labor & Employment Law Conference, Portland, Ore.
10.09.12	"Affordable Care Act Upheld: What Now for Your Benefit and Health Plans?" Davis Wright Tremaine CLE, Portland, Ore.
06.05.12	"Beyond the Basics: How HR and Supervisors Can Manage the Absent Employee," Second Annual Seminar for HR Staff and Line Supervisors, Davis Wright Tremaine, Portland
04.24.12	"Nonprofit Director and Officer Responsibilities in a Changing Environment," Pacific Continental, Chubb Group of Insurance Companies, Beecher Carlson Insurance Agency, LLC, Portland, Ore.
10.19.11	"Tips and Strategies for Performing HR Investigations," PHRMA October Luncheon, Portland, Ore.
05.25.11	"Beyond the Basics: How HR and Managers Can Prevent Employee Lawsuits," Davis Wright Tremaine workshop, Portland, Ore.
04.20.11	"Attracting & Retaining Diverse Talent at Defense Firms," Oregon Association of Defense Counsel, Portland, Ore.
March 2011	"How to Manage an Embezzlement Problem," Financial Executives Networking Group, Portland, Ore.
February 2011	"Avoiding Traps for the Unwary Employer," CEO Forum, Portland, Ore.
September 2010	Supervisor's Boot Camp, Oregon Medical Association, Portland, Ore.
June 2010	"Employee Fraud in the Nonprofit World," Willamette Valley Development Officers
January 2010	Moderator, Creative Resolution of Employment Claims, DRI Corporate Counsel Roundtable, New York, N.Y.

April 2010 "Avoiding Employment Landmines: Advice for the Growing Employer," Nevada State Bank Seminar, Las Vegas

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April 2010 "How to Hire and Fire Without Getting Sued," Metropolitan Business Association, Portland, Ore.

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## Publications

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Summer 2012 "Effective Arbitration of ERISA Claims Disputes," In-House Defense Quarterly

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March 2012 "Effective Arbitration of ERISA Claims Disputes," Benefits Magazine

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