



# Legal Connections

LEGAL EXPERTISE FOR THE BUSINESS COMMUNITY

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## MIND YOUR MANAGERS

Living vicariously can be a risky proposition as an employer. Under the doctrine of *respondet superior*—a Latin phrase meaning “that the master must answer”—a business may be held legally responsible for the wrongful actions or inactions of its managers and supervisors.

Here are five real-world scenarios that may lead to liability for the company/employer:

1. A shift supervisor sees employees routinely disregarding safety protocols to save time but does not intervene. One of the employees later suffers an on-the-job injury.
2. A hiring manager asks an older-looking candidate, “Are you planning to retire at age 65?” Assuming the candidate only intends to work a few more years, the hiring manager hires someone else.



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3. A department head knows that employees routinely underreport their hours worked on their timesheets, but approves the timesheets anyway.

4. A vice president declines to promote a top performer a week after the employee helped a colleague make a complaint of race discrimination with human

resources.

5. A chief financial officer, unaware of the company’s reasonable accommodations policy, says, “we don’t do that” when a pregnant employee asks for a reduced work schedule to seek treatment for back pain.

As these examples show, employees in supervisory and leadership roles have the potential to create legal risk for their employers by what they say and do (and what they did not say and do). The good news is, as a business, you have tools

to minimize the risk of liability to the company.

For example, train your managers and supervisors about their responsibility to know and actively enforce your company policies.

Ensure your leaders recognize what your personnel policies mean in practice, including those policies addressing non-discrimination, non-harassment, non-retaliation and reasonable accommodations.

Consider whether the on-the-ground realities of your workplace align with the language and intent of your policies. Where there is a mismatch, figure out why and address the issue.

Just as managers vet the performance of employees under their supervision, put systems in place to vet whether your managers are performing their responsibilities in the manner you expect.

By dedicating resources to train and

oversee your management team, you will arm your business to minimize the risks of liability lurking in today’s work environment. ■

*Kathryn Brown is a management-side employment attorney with Duane Morris LLP.*

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## QUIET QUITTING: WHAT IS IT AND WHAT ARE EMPLOYERS DOING ABOUT IT?

For decades, certain employees have prided themselves on persevering, pressing on, and pushing through. They came early, stayed late, and worked when sick. The COVID-19 pandemic laid bare the risk associated with employees coming to work while sick, and many employers changed their attendance and sick leave policies in response. The pandemic may also have caused some employees to re-evaluate their willingness to get the job done no matter the cost.



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Social media, news articles, and the blogs are full of stories about employees “quietly quitting” in 2022. While the name suggests employees walking out silently, it refers to employees refusing to do any more than the bare minimum. No extra effort. No enthusiasm.

Experts attribute the quiet quitting phenomenon to increased stress, heightened burnout, and a change in employee priorities. Whatever the cause, many employers report seeing evidence of quiet quitting in their workplaces. What are those signs? Amazingly, the signs are the same signs employers have

looked at for decades to determine a satisfied workforce: employee negativity; lack of presence; and disengagement. And while conventional wisdom suggests that quiet quitting hurts productivity, it’s important to note that some experts believe that quiet quitting may result in some employee populations learning to operate more efficiently as employees strive to achieve goals with less effort. That said, for a system that has long rewarded long hours, employees quietly quitting could prove challenging for many employers. Not only can discontent spread among employees, but quiet quitting can erode a competitive advantage that employers may have long depended on.

If an employer is worried about quiet quitting, the first step for that employer would be to evaluate its workforce. Have employees disengaged? Are social gatherings well attended? Are employees satisfied (generally) with their work and their work-life balance? Do employees feel supported and respected? Are employees paid appropriately for the market? If the answer to any of these questions is “no,” employers may want to take proactive steps to address employee concerns. ■

*This is an excerpt from Catherine Burgett’s “Quiet Quitting: What is it? What are Employers Doing About it?” Read the full version in the Columbus Bar Winter 2023 Lawyers Quarterly.*

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