

“that’s what she said”

a ford & harrison blog about the popular television series “the office”

Straight Shooter

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Litigation Value: Take out your checkbook, Jo. Major bucks to Andy for negligent retention and negligent infliction of emotional distress. Dwight should be prepared to pony up as well, since Andy will be sure to hit him with assault and intentional infliction of emotional distress claims. Andy might even find himself the owner of a beet farm.

WOW is all I can say. Who else saw this coming? We’ve [expressed our concern about Dwight’s weapons stash before](#) and worried that his predilection for keeping things like nunchuks and Chinese throwing stars squirreled away around the office could lead to a serious incident of violence. This week was a very close call. But let’s start from the beginning.

Last week, Deangelo Vickers was injured in a tragic basketball-dunking accident in the warehouse and is now in a coma, leaving Dunder Mifflin Scranton without a fearless leader. Still, they seem to be doing OK without a manager — as Jim explains, people come in on their own schedules and get their work done; it’s pretty cool! Of course, they also make time for foosball in Michael’s old office. But it would probably be too much to expect them to not take advantage of the lack of supervision in some way, right? Of course, Jo wasn’t going to let that situation continue forever. Looking for an acting

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manager to fill the gap until they can find a permanent candidate, Jo first called Jim to offer him the position, but he declined, saying he was happy the way things were. Jim should have known better, though. Seriously, how did he not guess that if he turned the offer down, Jo's next call would be to Dwight?

Dwight immediately institutes changes that he — and probably only he — sees as an improvement in the office:

- Everyone now has to punch a turn-of-the-century time clock.
- Lunch breaks are staggered, so everyone eats alone.
- And each employee has to use their own 21-digit copier code. (This turns out to be too many numbers for accountant Kevin.)

Dwight oversees his paper supply gulag from an exact replica of Uday Hussein's desk. Of course, even before things went drastically wrong, it was easy to see that Dwight's management techniques were going to backfire. Dwight has never been able to understand that the Dunder Mifflin staffers are, in fact, adults who are pretty capable of motivating themselves to get their work done. They've been stunningly successful at running an office, what with Michael making it his personal mission to distract them from doing any work whatsoever. Nobody likes being micro-managed, and Dwight's over-the-top style of management wasn't going to last long before people became seriously discontented. Even Angela seemed to be getting annoyed. That's how you know employee morale must have been really low.

But there's no way of knowing how long Dwight would have stayed "in power" — particularly with Jim's FIST organization and Operation Overthrow — because Dwight ended up shooting himself in the foot (ahem, pardon the pun). Dwight opened a gift from his uncle to find an antique holster. Of course, Dwight needed to wear the holster. Of course, Dwight needed to put something in the holster. See where I'm going with this? And we were zero-to-Dwight-patrolling-the-office-with-a-loaded-weapon in under 60

seconds. The employees, quite naturally, viewed the gun as ... oh, I don't know, terrifying? Unsafe? Insane? Gosh, what do you think? They immediately demanded that Dwight lose the gun. Dwight, convinced that his colleagues were overreacting, nonetheless was on his way to capitulating but accidentally discharged the gun while it was pointed at Andy. My employment lawyer's heart stopped. Fortunately, Andy wasn't shot, but the gun went off so close to his head that it blew out his eardrum, leaving him tragically unable to locate perfect pitch. All I can say is, thank goodness it wasn't worse. (Andy is one of my favorite characters. Go Big Red!) Dwight then made the situation even worse by trying to convince his colleagues to cover for him.

Ultimately, Dwight decided that his best chance of keeping the acting manager's job would be to confess to Jo, because he "cares too much about this job to be blackmailed into doing it poorly." (Really, Dwight? You honestly thought Jo would let you continue to be acting manager?) Jo immediately demoted Dwight back to his old sales position, which in my opinion didn't go far enough. As Sabre's attorney, I would have advised Jo to fire Dwight immediately. Keeping him on is a recipe for a negligent retention lawsuit next time Dwight pulls a weapon on the office — and we know there will be a next time. I'd also suggest that Jo beef up security. Disgruntled former employees with large weapons stashes have been known to come back to their old workplaces on rampages. Keeping Dwight far away from the office is the safest course for everyone.

Even without this incident, Dunder Mifflin might have been staring down the barrel of a negligent retention lawsuit. Dwight's weapons were common knowledge in the office, and Dwight showed a tendency to violence [even after Sabre took ownership of Dunder Mifflin](#). Did Sabre have enough information about Dwight's possibly unstable streak and fixation with weapons to justify letting him go? In my opinion, they probably did. And that means Andy might have a nice negligent retention claim, and possibly a negligent infliction of emotional distress claim, to assert against his employer. More bad news for Sabre: Employees who are injured due to "intentional" acts of coworkers (even accidentally

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discharging a gun would qualify, since Dwight intentionally carried the gun and there was absolutely no reason for it) typically don't fall under workers' compensation — so Sabre is probably going to be open to litigation. And of course, there is a host of intentional torts that Andy could claim against Dwight personally — assault, battery, intentional infliction of emotional distress, you name it. Both Sabre and Dwight are looking at some serious potential legal liability here. Hey, I'm just being a straight shooter.