

Friday, May 21, 2010

Q&A: Denise Drake, office managing shareholder, Littler Mendelson PC

Kansas City Business Journal

*Denise Drake is office managing shareholder at **Littler Mendelson PC** in Kansas City. She specializes in employment and labor law.*

What are some of the most common mistakes you see in employee manuals?

The most common mistakes would be when employers are a little too adamant with regard to the language they use, not giving themselves enough discretion. As we know, there are few black-and-white situations in the world. Particularly in the disciplinary context, if you have a certain procedure that you say must be followed ... it doesn't give you the discretion that you need or the room that you might want to vary from that. ...

I'd say the other thing that I see quite often is a failure to take into account state laws to the extent necessary. Many states and also local governments may have certain laws on the books that employers may not be aware of or they may not include in their handbook.

Can you describe an example of a situation that could have been prevented by a change in an employee manual?

In some states, if you don't have appropriate disclaimer language and language that gives you discretion, then you actually make your employee handbook into a contract. So the employer is bound by exactly what that handbook says. So if you say you get X number of days off or you have X number of steps in the disciplinary process and you don't give the employee those steps, then you may have a breach of contract action on your hands.

