

“that’s what she said”

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

Sticky Quips

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Litigation value: \$8.99 + tip for Michael’s “free” lunch, although Michael’s tort action for false imprisonment against Mr. Chu and the Chinese restaurant will more than cover it.

From an employment liability perspective, it is probably a good thing for Dunder Mifflin/Sabre that Michael’s character is [leaving the show](#) soon. One suspects that his soon-to-be-rekindled relationship with coworker Holly will not end well. Which is too bad because we learned this week that Holly and Michael are quite literally of one mind. But this is The Office, and when the relationship goes down in flames (and it will), one of my colleagues will write about it on this page.

The main plot line in this week’s episode, “The Search,” is — wait for it — the search for Michael as he roams the streets of Scranton sans wallet and phone. But the real action for the employment lawyer is back in the office where Pam has done a drawing and is putting on a caption contest. Consider Gabe’s contest “ground rules”:

Rule #1: No captions that would insult the company. Can an employer terminate an employee for “insulting” the company? Generally, yes. Disparaging your employer or your manager merits discipline. But employees who band together and are critical of their pay,

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benefits, or working conditions may be engaged in protected, concerted activity. Under the National Labor Relations Act, it is unlawful for an employer to take adverse action against an employee engaged in protected, concerted activity. In fact, a [very recent NLRB decision](#) holds that it is an unlawful “preemptive strike” for an employer to terminate an employee that it suspects is going to engage in protected, concerted activity. All that said, the Scranton employee (Angela!) whose caption referenced urinating on Gabe should polish up her resume.

Rule #2: No captions that make pop-culture references. Gabe is a buzzkill who excels at sucking the life out of any room. But his sixth sense for avoiding employment liability is uncanny. It may be a stretch, but you could envision a disparate impact age case based on an office-endorsed event that required employees to make pop culture references, right? Yeah, probably not ... but you never know.

To close, the best quote of the episode: “I’ve got a car full of fox meat.” That’s what Dwight said. What do you say? Let us know.