

“that’s what she said”

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

Watch Your Mouth

September 17, 2010 - by: [Matt Scott](#)

Forgive me for repeating myself, but The Office was a repeat last night. Thankfully it was the last repeat before next week’s season premier, Thursday, Sept. 23 on NBC.

Moving on. This was the episode where Jo sought to uncover who blew the whistle on Sabre’s faulty explosive printers. There really didn’t seem to be any federal employment laws implicated in this episode, but virtually every state in the country has some whistleblower protections in place for employees who report corporate wrongdoing. Some are created by statute, others are created by the courts (common law causes of action). What applies to you depends on the state in which you live.

So if you have any specific state law questions, consult the Ford & Harrison office nearest you. (You can also check out [50 Employment Laws in 50 States](#) from HRhero to which several Ford & Harrison offices contribute.)

As for other issues arising in this episode, the obvious one was Jo having the IT guys search employee hard drives without the employees’ knowledge. While many people believe they have a [right to privacy in their work computers](#), the fact is, most don’t. To ensure that employers trigger this right to “spy,” however, it is important for employers to notify their employees that the office equipment is just that — office equipment.

In other words, “It ain’t yours!” This is easily done in the [employee handbook](#), with a simple statement that office equipment is to be used primarily for office work. And

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while employees can use office equipment for personal issues (sometimes), employees should have no expectation of privacy in office computers, etc.

Our firm, for example, has a message that cycles on the screen every so often in the morning stating that the firm computers are firm property and no one should expect a right to privacy in using them. I have to click "OK" on this occasional message to go forward and boot up Microsoft Office for the day.

Another issue raised by this episode is the use of [social media](#). Both Darryl and Kelly apparently spend a considerable amount of time on Facebook and Twitter, and for Kelly, who has no filter between her brain and her mouth (or her fingers), this could be problematic. Things employees say on social media, even though said in the privacy of their own homes and on their own computers (let alone work computers), can have serious consequences.

Recently I had a client ask whether they could [terminate an employee](#) who decided to post a message on Facebook about how rotten her employer is (which was completely untrue, this was a great employer!). The answer is, yes, employees can and do get fired for things they say on their own computers if they end up in cyberspace and they are damaging or disparaging to their employer or coworkers.

So while you are free to express your First Amendment rights as you will, just remember, rights come with responsibilities and consequences, and what you say in cyberspace can (and probably will) be used against you if it's disparaging toward your employer or your coworkers.

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