

Do Your Employees Moonlight?

By: Beth Lincow

<http://www.humanresourceattorney.com/>

The recent scandal regarding an attorney who was suspended by New York Attorney General's office for moonlighting as a dominatrix highlights an important question—when can an employee's "moonlighting" legitimately be used by employers as grounds for disciplinary action.

According to the [New York Post](#), Alisha Smith, a well-respected lawyer who handles securities fraud cases in the New York Attorney General's office, was suspended after the newspaper inquired about whether she is working after hours as a dominatrix.

"The employee has been suspended without pay, effective immediately, pending an internal investigation," said a spokesman for state Attorney General Eric Schneiderman.

Sources told the newspaper that the suspension was supported by an employee policy that bars outside employment without prior approval if the job results in more than \$1,000 in pay.

What Are the Rules for Moonlighting?

For the most part, employees are free to do what they want with their free time outside of work. However, if moonlighting is directly damaging to the employer's interests, or creates a risk of serious harm, it has in some cases amounted to misconduct and even warranted termination.

Of course, many of these issues can be avoided by outlining employees' obligations in employment contracts and employee handbooks, as seems to be the case with the New York Attorney General's office. In general, this will make it much harder for an employee to argue that he should be entitled to hold another job while employed by your company.

About Beth Lincow Cole

The Law Office of Beth Lincow Cole is committed to helping employers comply with federal and state employment law and avoid potential business-wrecking lawsuits. If your company needs employee or management training or assistance in drafting, reviewing, or revising its EEOC/discrimination policies, contact employment law attorney Beth Lincow Cole.