The 4 Steps Of Winning A Social Media Inadequate Training Lawsuit

Step I: Employees disciplined for online mistakes hire aggressive attorneys that blame their client's mistakes on inadequate training of the new speech laws (42 U.S.C.S. 1983) and negligent policy drafting, Through the wide-scope of discovery, plaintiff attorneys scrutinize the instructor's credentials, class workbooks, and question employees on their knowledge of the new speech laws.

Step II: Plaintiff attorneys representing disciplined employees, or third parties harmed by an employee's behavior, prove through discovery that policymakers were indifferent to the recent rulings handed down by the U.S. Supreme Court and federal courts on online speech; employees are now classified as high-risk broadcasters using powerful social media, texting, and email platforms. This new classification puts employers on notice that due to the high risk of an employee violating the constitutional rights of a person, they must provide more in-depth training by an outside social media/digital media law expert. Courts reject general warnings, vague policies, and sharing boilerplate information from an association conference as a substitute for expert training.

Step III: Despite knowing that their in-house attorney or a non-lawyer trainer isn't a specialist in social media/digital media law and couldn't possibly give employees the same expert training as an experienced social media/digital media attorney, the employer refused to hire an outside expert. The absence of an expert instructor resulted in a training session that consisted mostly of general warnings and handing out vague policies. This type of superficial training and failure to discuss the hidden liabilities of the new speech laws left the employees more vulnerable to making online mistakes that violate a person's constitutional right.

Step IV: Plaintiff attorneys prove deliberate indifference by presenting the evidence below. See "deliberate indifference" defined in *City of Canton Ohio v. Harris 489 U.S. 378 (1989*):

- Employers knew with moral certainty that via smartphones and personal devices, most employees use social media, texts, and to communicate with co-workers and citizens. Therefore, any reasonable policymaker would foresee that without the proper expert training, employees would be susceptible to posting or tweeting content that violates a person's constitutional rights.

- Based on screaming news headlines (i.e. 2016 Presidential Election),recent U.S. Supreme Court and federal court decisions, plaintiff attorneys proffer the argument that policymakers knew or should have known of the inherent risks of an untrained employee sending messages on powerful social media platforms that could permanently destroy a person's reputation.

- Policymakers knew or should have known that without the proper training on the new speech laws regarding libel, libel by implication, unprotected jokes, opinions, First Amendment workplace speech, privacy invasion, copyright infringement, and other media law issues, employees would be left with an information vacuum. Policymakers knew or should have known this information vacuum would be filled with guesswork as to what posts or tweets constituted protected or unprotected speech under the First Amendment.

Common Court Holding

The plaintiff satisfies the elements of inadequate training as defined by the U.S. Supreme Court case of Canton Ohio v. Harris 489 U.S. 378 (1989). It is proved with moral certainty that the employer knows that employees use social media, texting, and email in their everyday internal and external operations. This conclusion is reinforced by the fact that the employer has written policies on employee usage of these powerful platforms.

Employers were also put on notice of the power of social media, texting, and email platforms by the daily news headlines and recent U.S. Supreme Court and federal decisions. These news stories and court cases act as widely publicized proof that misuse of these powerful platforms can directly cause a violation of the constitutional rights of co-workers, citizens, and other third parties.

Further, not knowing the new speech laws greatly heightens the risk of an employee making a wrong choice on what online content constitutes protected speech under the First Amendment and other communication laws. Even a single incident would put the employer on notice that the need for more or different training (i.e. specialized training by an experienced social media attorney) would mitigate the chance of an employee making a mistake that violates another person's constitutional rights. Based on these legal conclusions, the evidence clearly shows that employers showed a deliberate indifference to the obvious need for an attorney that specializes in social media law/digital media laws.

Therefore, we hold today that the employer is liable for inadequate training under statute 42 USCS 1983. Additionally, any reasonable policymaker would have known that their in-house attorney or other staff member couldn't possibly deliver the same type of specialized social media/digital media law training as an expert. Proffering the defense that the organization is under tight budget constraints and couldn't afford an outside expert is soundly rejected by this court. The cost of specialized social media/digital media law training is a fraction of what a lawsuit would cost.

Therefore, we find liability falls squarely on the shoulders of the government employer. Additionally, we hold policymakers liable individually (No Qualified Immunity) for gambling the taxpayers money on not being sued for online mistakes and showing a deliberate indifference towards hiring an expert to properly train employees on the new speech laws.