

TRANSITION STRATEGIES, LLC

SUCCEED in ways you never thought possible

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Dear Clients and Friends:

The economic downturn continues to produce job losses, pay cuts, and financial pressures for many employees. There are a few who have made needless mistakes that cost them their jobs. For example, careless social networking can have negative effects on your job security. The article below outlines steps you can take to keep your social network commentary outside of your employer's evidence locker.

With no job growth in the economy for the past 22 months, keeping your job has become a job in and of itself. I am pleased to be able to help as a legal

contributor to numerous television and radio news programs. To see some of these shows, you can go to: www.youtube.com/attorneyrobinbond, and check www.robinbond.com.

New job growth will be slow, so it is important to do all you can to succeed at work, and to secure important protections.

Joann Drust, Esq., of our firm has developed a busy litigation practice in the areas of discrimination law — age, gender, race, religion, equal pay, & contract breach — as well as in helping individuals obtain both standard and expanded Unemployment Compensation benefits. Call us at 610-640-5373 for a free



phone consultation. Thank you for your business!

Sincerely,

A handwritten signature in cursive script, appearing to read "Robin Bond".

Robin Bond, Esq.
Managing Partner

Words of Wisdom

Turn wounds into wisdom.

A bad grade is only one letter in the essay of life.

Life shrinks or expands in proportion to one's courage.

The healthy and strong individual is the one who asks for help when he needs it.

When it is dark enough, you can see the stars.

Our Mission:

We are agents for executives and other professionals.

~ ~ ~
We create negotiating strategies for your success.
~ ~ ~

- ◆ Severance packages
- ◆ New job offers
- ◆ Employment agreements
- ◆ Any career crisis

~ ~ ~
We make deals happen.

The Workplace Remains Outside the Twitterverse

140 characters. That's all it takes for a twittering employee to lose his job. What happens when an employee tweets confidential company information? Should employees "friend" their bosses on Facebook? What about other co-workers? There is a lot of confusion about what is, and what isn't, safe to post on social networks. The wrong choice can result in office embarrassment, discipline, and worst of all: being fired. Employees aren't the only ones at risk; employers, too, can lose confidential information online or be liable for certain posts. Here are some tips from Robin's September 2009 speech at the PA Governor's Conference for Women:

Employees should treat their Facebook and Twitter pages as if they were billboards. Don't post anything you wouldn't want the world to see! Remember mom's advice: "If you can't say something nice, don't say anything at all." If you need a Facebook or Twitter page for business contacts, create separate personal & work accounts, and don't co-mingle the two. If possible, use LinkedIn for business purposes while you keep your Facebook and Twitter updates for personal use. Finally, employees should not post to personal accounts during work hours or on a company computer.

Employers should implement clear policies that say what is permissible and what is not for social networking — and educate employees on it! Address the risks and consequences of posting defamatory or discriminatory content. Employers should forbid postings of confidential information to public domains such as forums, blogs, and pages on social network sites, and clearly identify what is considered "confidential".

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At-Will Employment Still Kickin’

The PA Supreme Court recently ruled that an employee could not pursue a wrongful termination claim based on sexual harassment when working for a company with fewer than 4 employees, specifically rejecting a “public policy” exception to the at-will employment rule.

Melissa Weaver filed a sex discrimination claim with the PA Human Relations Commission (PHRC), but was rejected on the grounds that her employer did not employ more than 4 employees, a threshold requirement under the PA Human Rights Act (PHRA). The PHRC also dismissed Weaver’s Title VII claims as the federal statute’s protections only apply to employers with 15 or more employees.

Weaver appealed the dismissal of both claims to the PA Superior Court, arguing that the state recognizes a “public policy” prohibition against sexual discrimination, bringing it outside the PHRA’s limitations. While the Superior Court agreed with Weaver, her employer appealed this decision and the Supreme Court ultimately reversed.

The Supreme Court specifically held that the PHRA was the only legal relief for employees subjected to sexual harassment discrimination and refused to carve out a judicial “public policy” exception. Admitting the unfairness of this rule, the Court was compelled to follow the law’s definition of “employer.”

The following “public policy” exceptions DO exist to contest an at-will firing for: (1) filing a worker’s comp claim; (2) filing an unemployment compensation claim; (3) serving on a jury; or (4) refusing to submit to a polygraph test.

Companies Not Ready to Restore Executive Payouts

In its September 2009 survey *Executive Pay and the Economic Recovery*, Watson Wyatt Consulting asked HR and compensation executives at 187 U.S. companies about restoring executive pay cuts and freezes made during the economic crisis. Here are the findings:

- ◆ 63% of companies are not planning to reverse changes made to executive salaries in the next 6 months.
- ◆ Fewer companies are considering short-term salary reductions. In March 2009, 10% of companies considered such a measure. In September 2009, that number dropped down to 2%.
- ◆ 30% of companies are raising performance goals and/or changing metrics relative to 2009’s actual performance for bonuses.
- ◆ 92% of employers are not planning to reduce bonus opportunities or eligibility requirements.
- ◆ 94% of companies expect more regulation of executive pay within the next two years.

(Source: www.SHRM.org)

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Age Bias Ruling to be Countered

Earlier this year, the Supreme Court issued a ruling in *Gross v. FBL Financial* stating that workers must show age was THE decisive factor in a wrongful termination or demotion claim based upon age.

Critics of the decision point out that at a time when unemployment numbers for workers age 55 and older are at an all-time high, older workers now face a *higher* burden of proof than victims of other types of illegal discrimination — those based on religion, disability, race, sex, and national origin. In these other types of discrimination, victims need to show that their membership in the protected class was just one factor in the adverse employment decision.

As a result, a bill has been introduced in Congress that would reverse the Court’s decision in *Gross*. The bill has strong support from the AARP. Congress did a similar thing in January 2009 with the *Lilly Ledbetter Fair Pay Act*, countering a 2007 Supreme Court decision that said workers had only 180 days to file pay-discrimination lawsuits.

Retirement Retired!

A recent survey found many U.S. employers are waiting to see economic recovery before they move forward with retirement plan benefits.

Aon Consulting surveyed 1,313 employers about their retirement plans for its 2009 Benefits & Talent Survey. The survey found that of the 45% of U.S. employers that offer a defined benefit (DB) pension plan, 41% have frozen their pension plans to new entrants, 25% have frozen their plans entirely without a strategy for plan termination, and 20% have frozen their plans with the intent to terminate them.

Pay Czar In Action

As a follow-up to our previous article about pay czar Kenneth Feinberg’s mission to slash executive pay, we now report that of the seven biggest companies who have received government bailout money, the top 25 earners at these companies will have their pay cut by an average of 50% from last year. The companies involved are AIG, Bank of America, Citigroup, GM, GMAC, Chrysler, and Chrysler Financial.