

A hand is shown at the bottom, holding a blue umbrella. A thick white curved line starts from the left edge and arcs across the middle of the image, separating the title area from the logo area.

There's an (HR) Storm A-Brewin'

Employment Law LARP



Ken Gray

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Ken's practice experience encompasses various areas of employment-related litigation. He advises clients and litigates cases involving all forms of employment discrimination, wrongful discharge, and breach of employment contracts from small start-up companies to Fortune 500 corporations. Ken is a frequent lecturer on employment discrimination, workplace retaliation, workers' compensation, and wage and hour law issues.



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Devon leads the Labor and Employment practice. Her practice focuses on a wide range of labor and employment issues, including wage and hour matters, federal contractor compliance, employment discrimination and harassment, employee discipline and termination, personnel policies, and background checks. In matters relating to employee benefits, she concentrates on issues confronting welfare benefit plans (such as medical, dental, and other plans) and their sponsors, including the provisions and impact of the Affordable Care Act.



Company Background

- Hammertime Security is a cybersecurity company with more than 1,000 employees nationwide.
- Hammertime Security was established in 1998 by Samuel Kenneth Hammertime, Jr. (also known as "lil Kenny").



Annual Retreat

- In 2019, the managers meeting was in New Orleans during Mardi Gras.
- After a night on the town, several managers posted pictures of the festivities on different social media platforms.
- Kenny Hammertime is furious about the social media post and has instructed you, the company's GC, to make it go away.





"Caption This"

- Sam, who considers himself an "Influencer," tags the photo seen here with:

"Caption this."

- Denise comments,

"Your place or mine?"

"Caption This" Fall Out

- Unamused, several Hammertime employees replied to Denise's comment chastising her.
- Denise, in defense, comments back,
*"you do not know what I know.
If you did, I wouldn't be the one to chastise."*





Take 5 minutes to gather into a group to discuss these social media interactions.

Text in your group's thoughts as you chat.

If you have not connected to the polling software via text yet, please do so during this time as you will be responding via text throughout this session.

To the number 22333, text INHOUSECOUNSEL to join.

The CEO has asked you to make this go away. What do you do?

“Hi, Denise, Kelsey, and Rod. Thank you for coming in today. You're all fired!" ”

“Stop complaining”

“Need to explore what was behind Denise's comments ”

“Ask Sam to delete post ”

“Who idea to have this event during Mardi Gras ”

“It depends ”

“Ask Sam to take it down.”

“Ask Sam to take it down, he is a VP ”

“Investigate rod and Kelseys relationship ”

#Priorities

*Hammertime Security is the worst. I love (*sarcasm*) how everyone wants to come to Princess Kelsey's defense, but when I have legit complaints no one in the HR department takes me seriously or comes to rescue me. A little ironic, don't you think?!*

"Management" there is such a joke. Just a bunch of assholes who couldn't care less about the employees. You know, the people who actually work in this sweat shop. It must be nice to sit in your fancy office raking in money while your employees barely make enough to put food on the table.

*And don't even get me started on the "team building" trips to New Orleans. It's just an excuse for all of the managers to get wasted on the company's tab... seriously, they are always sh*t faced! Meanwhile, I haven't gotten a raise in three years. UGH! #Priorities*

I've had it with this company and I know there are other people at Hammertime who feel the same way I do. We can do better. Who's with me?





Take 5 minutes to gather into a group and discuss what you would do next.

Text in your group's discussion points as you chat.

How do you handle Denise's post?

“Promote Denise to CEO immediately!”

“Adios Denise”

“Severance package”

“Investigate Denise's claim that she's made other reports that haven't been addressed.”

“Climate survey”

“No raise for Denise”

“#lethergo”

“Confiscate her thumbs.”

“Investigate Denise's allegations”

“Investigate Denise's complaints”

“Fire Denise”

The Accident – Roman's Story

- Hammertime Security chartered a bus to take the managers to see a New Orleans Pelicans game. On the way to the game, the bus gets into a bad accident.
- Several employees were hurt quite severely, including Roman Williams.
- Roman has been on an FMLA-approved leave of absence during this time and is nearing his 12 week mark.
- Out of the blue, Roman calls you directly the day before his FMLA is to run out.





Take a few minutes to
talk to Roman and text
in your thoughts.

What do you advise the company to do?

“Don't just fire him ”

“Ask if there's anything that he can do and when he might be able to come back to work ”

“Refer him to the benefits department ”

“Interactive process ”

“Send him to HR - this is ADA territory ”

“ADA policy comes into play ”



Roman's Reasonable Accommodation

Following your discussion with Roman, you request additional medical certification.

His treating physician's medical certification states that Roman needs an additional six (6) weeks of leave.

What do you do?

“Long term disability”

“Give him the six weeks”

“Give him the time”

“Allow it. Or get sued.”

“Unpaid leave.”

“Probably a reasonable accommodation”

“Find out if he can work from home part time.”

“Don't be a jerk. Give more time.”

“See ya in 6 weeks”

“Let the man heal 🧘”

“Find out if he can work from home part time.”

Roman's Reasonable Accommodation, cont.

You grant Roman's request for an additional 6 weeks of leave as an accommodation under the ADA.

Before his leave runs out, Roman contacts you again to let you know that due to complications, his physician is writing him out of work for another four weeks.



Now what do you do?

“Begin interviewing replacements for Roman.”

“Repeat ”

“Settle his WC claim with a release and resignation agreement.”

“Allow the additional leave ”

“Have a heart. Give the guy a break. ”

“Can he work from home? ”

“Another reasonable accommodation assessment.”

“Ask the business unit if they still want them ”

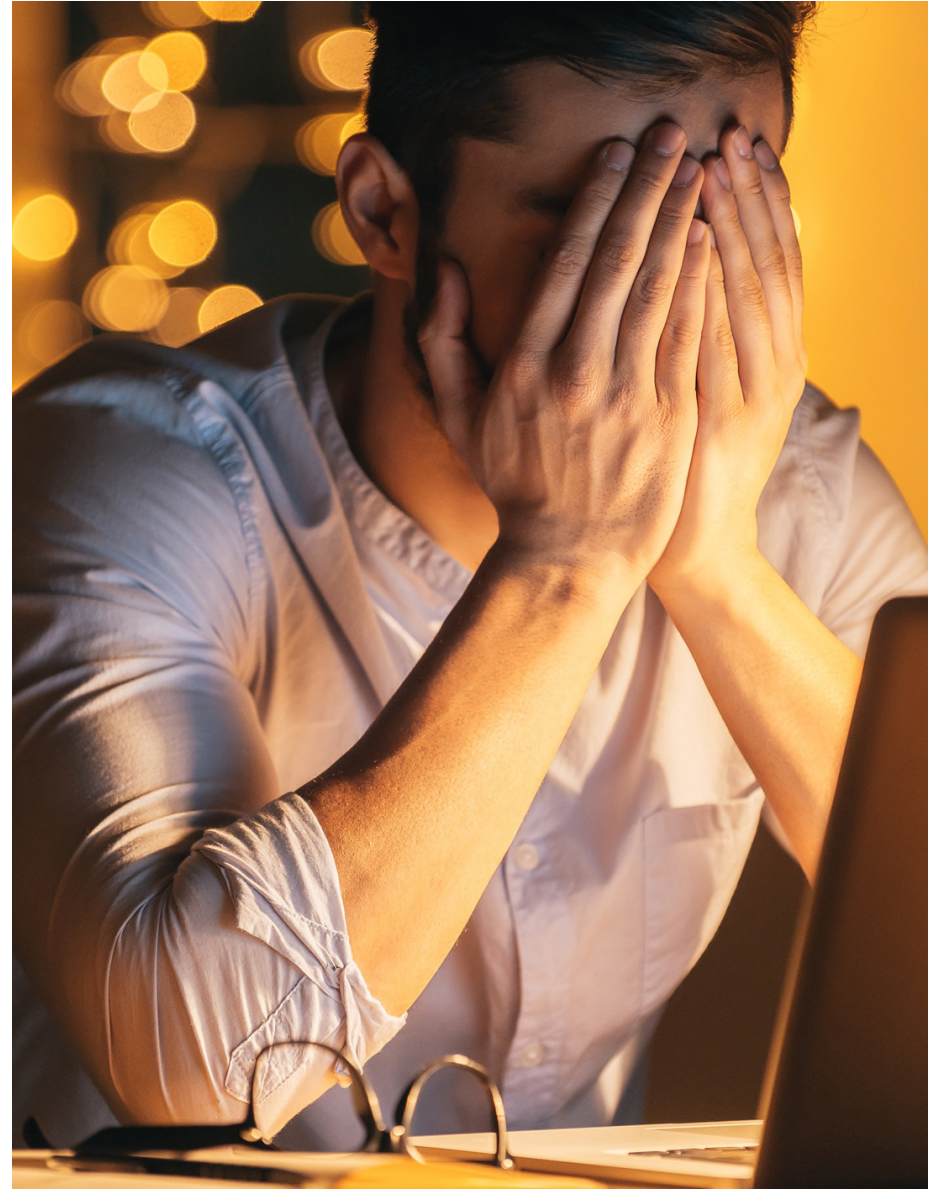
“Tell him he can remain employee on inactive status but job protection is no longer feasible for biz to run ”

“Change the scope of his employment - new responsibilities? Remote working? ”

“Find a way to get the guy out of the company without a lawsuit ”

The Accident – Jerry's Story

- Jerry Irwin, Head of the Australian Sales Division, was also injured in the bus accident.
- Jerry's performance has been declining ever since the accident and he has not been himself lately. He has been coming in late and seems quick to anger.
- Kenny Hammertime has asked you to speak with Jerry and get him back in the game.





**Take a few minutes to
talk to Jerry and text in
your thoughts.**

How do you handle Jerry's request?

“Sir Noodles 2020! ”

“Initiate interactive process for reasonable accommodation - performance issues may be linked to medical condition.”

“Interactive process ”

“Bring on the cats!! ”

“The only service animals that are identified under the ADA are the miniature horse and a dog ”

“We Googled the cat. Undeniable cuteness renders "yes" verdict ”

“What if employees are allergic to cats! ”

“ ”

“Allow all pets to come into the office. Hammertime Security needs to entice millennials. ”

“But we still may decide to accommodate him ”

“and he is a cat, right?”



After speaking with Jerry, you agree to accommodate Jerry's request temporarily. Within 30 minutes of Jerry walking in with Sir Noodles in the season's most fashionable BabyBjorn, Jerry's co-worker, Emily, is at your door, in tears.

Before you talk to Emily, there is something you should know...

The Emotional Support Bengal (a.k.a. Sir Noodles)

- Jerry works in the same office as Emily Lightfoot, who is allergic to certain types of animal dander.
- She is deathly afraid of Bengal cats and being around them sends her into what she calls "an episode."
- Emily is adamant that she cannot work with Jerry while he has Sir Noodles.





**Take a few minutes to
talk to Emily and text
in your thoughts.**

How do you deal with Emily's request?

“Hire Cat Assassin ”

“Ask Denise to post on social media that Emily is a #CatHater.”

“She needs to go to the interactive process with the benefits people ”

“Request doctor or counselor note for file then accommodate her need to work in a different area of building ... or remotely.”

“Choose to find a way to accommodate both of them ”

“Make everyone work remote ”

“The company has a right to know her medical limitations for work reasons ”

“Make her Prove it.”

“You can always come and eat both of them. There's no situation where you can't ”

“Flip a coin ”

“Send her home ”



Wrap Up

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