

FEBRUARY 15, 2017

## WHAT'S ONLINE

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## What Trump & GOP's latest moves really mean for ACA

### ■ What employers can expect in the near future

**M**uch has been reported about how President Trump's executive order on the ACA could affect the individual insurance marketplace.

But how will it impact employer health plans?

While the IRS can delay the deadlines, it's given no indication it will as of press time.

### What Trump's doing

The executive order directs federal agencies to "waive, defer, grant exemptions from, or delay the implementation of any provision or requirement of the Act [ACA] that would impose a fiscal burden ..."

This is Trump's formal declaration of war on Obamacare.

And it's leading employers to ask

*(Please see Trump ... on Page 2)*

### Don't stop reporting

**The bottom line:** While the impact could be significant for employers over the long-term, over the next few months it's likely to be more minimal.

Employers still have to be prepared to comply with the ACA's reporting requirements – with the first deadline hitting in just two weeks (Feb. 28).

## Did OT rule just get 'Trumped' ... twice?

### ■ The DOL's Obama-era regulation may now be on its last legs

**I**f you're not a fan of the DOL's new overtime rule, two moves by the Trump administration should make you smile.

First, the White House issued a memorandum instructing federal agencies to immediately freeze all pending regulations until reviewed by President Trump's cabinet appointees.

It asks agencies to stop submitting pending regulations for publication and take a second look – over a 60-day review period – at regs that have been published but have not yet taken effect.

Early indications are that the 60-day

delay would apply to the DOL's overtime rule if the injunction's lifted.

### 'Oh, and about that appeal ...'

Secondly, the DOL has asked the Court of Appeals for the Fifth Circuit for a 30-day extension of its time to file a brief in its appeal of the injunction.

This is a clear sign that there's been a changing of the guard at the DOL, and the Trump team is going to take a close look at whether to let the rule survive.

**Info:** [www.tinyurl.com/rule481](http://www.tinyurl.com/rule481)

# Trump ...

(continued from Page 1)

a very important question: *What will the first salvo on the employer health plan front be?*

### What employers can expect

Here are two of the safest bets so far:

- **Extension of the “good faith” transition relief.** The IRS has said health plans that make “good faith” efforts to comply with the ACA reporting requirements won’t be subject to non-compliance penalties in many instances. This relief was just extended to reporting for the 2016 tax year. And now there’s a good chance that relief will be extended to the 2017 tax year, if the ACA reporting process still exists by then.
- **The “Cadillac tax” will completely run out of gas.** The 40% excise tax

on high-value (i.e. “Cadillac”) health plans has already been delayed until 2020. And now, it appears likely the tax, which is already running on fumes, won’t make it to the finish line.

### What to watch next

As you may have heard, Republicans in Congress likely don’t have the votes to repeal the ACA outright.

So they plan to attack the law through a process known as reconciliation. It’ll allow Republicans to vote on budgetary pieces of the health law, without giving the Democrats a chance to filibuster.

The problem for the GOP is it limits how they can reshape the law.

Two parts of the law the GOP could affect through this process are the individual mandate and the subsidies to help people buy coverage.

Changes in either area would most certainly have a ripple effect on employer plans.

The fear is a repeal of the individual mandate and/or a drop in subsidies could lead younger, healthier individuals to drop coverage. And without repealing the requirement to insure individuals with pre-existing conditions, that could then drive up premiums for everyone, even employers.

As a result of this fear, Republicans are working on ways to encourage healthy individuals to have continuous coverage – a sticking point for insurers.

In addition, dropping the individual mandate would almost certainly change the employer reporting process – since the process helps the IRS enforce the mandate.

### What won’t change

Two things Republicans said they plan to keep in all health plans:

- The prohibition on denying coverage to those with pre-existing conditions (mentioned above).
- The ability for children to stay on their parents’ plans until age 26.

*The order: [www.tinyurl.com/aca481](http://www.tinyurl.com/aca481)*

## Sharpen your JUDGMENT

*This feature provides a framework for decision making that helps keep you and your company out of trouble. It describes a recent legal conflict and lets you judge the outcome.*

### ■ If worker got all his leave, can he sue for FMLA interference?

“We’ve got a problem,” company attorney Eric Bressler said as he stormed into HR manager Lynn Rondo’s office. “We just got sued for FMLA interference.”

“What? Who filed the lawsuit?” Lynn asked.

“Billy Daniels,” Eric said.

### ‘Wasn’t denied anything’

“But we gave him all of the FMLA leave he asked for,” Lynn said. “Everything went by the book ... he requested leave, submitted his certification paperwork and we granted his request. No problem.”

“How can he claim interference based on that?” she asked.

“He claims his manager told a group of employees during a meeting about his ... umm ... urinary system issue,” Eric said. “Billy then claims those employees cracked jokes at his expense and directed some pretty obscene gestures at him.”

“So, in essence, he’s saying by failing to keep his medical condition confidential, we interfered with his FMLA rights and we created a hostile work environment for him.”

“Look, I know he’s dealing with an embarrassing condition, and I’m sorry those guys made fun of him, but that’s simply not interference,” Lynn said. “The bottom line is he got all the leave he requested.”

“I agree,” Eric said. “It doesn’t sound like interference. Let’s fight his lawsuit.”

Did the company win?

- *Make your decision, then please turn to Page 6 for the court’s ruling.*

### WHAT'S WORKING in Human Resources

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# ADA accommodation may be reasonable, even if it costs \$120K

### ■ Court: Cost – and cost alone – can't establish undue hardship

Here's painful proof that courts don't want to hear that you used cost as the determining factor to deny a disabled employee an accommodation under the ADA.

Lauren Searls was a deaf nurse who was offered a job at Johns Hopkins Hospital. When she accepted the offer, Searls requested a full-time American Sign Language (ASL) interpreter as an accommodation.

### 'Not enough in the budget'

The hospital looked into providing one and determined a full-time ASL interpreter would cost \$120,000.

It then rescinded the job offer, claiming the area to which Searls would be assigned had "no other funds to pull from within the department." And, as a result, its

"threshold is zero for interpreter costs." So the accommodation would create an undue hardship, the hospital said.

Searls then filed an ADA lawsuit against the hospital. She said she was being discriminated against on the basis of her disability.

**Result:** She won the case, and a court granted her summary judgment. Johns Hopkins could now be facing some hefty damages.

The court said relying on a budget for reasonable accommodations is "an irrelevant factor in assessing undue hardship." In other words, relying on money alone – even such a large amount – isn't enough to establish that an accommodation is unreasonable.

**Cite:** Lauren Searls v. Johns Hopkins Hospital, *U.S. Dist. Ct. Dist. of MD, No. CCB-14-2983, 1/21/16.*

# FLSA ruling: It's true, you don't always have to pay employees for training time

### ■ Compensation for this type of instruction isn't required

A recent court ruling just gave employers another helpful example of when it's OK to not pay workers for training time.

Basically, the ruling came down to this: Who primarily benefited from the training – the worker or the employer?

Kathryn Otico said, according to the FLSA, she should've been paid for the time she spent in a 10-day training program to be a Hawaiian Airlines customer service representative.

She sued to collect payment.

### 'Primary beneficiary' test

Hawaiian fought to get her lawsuit thrown out – and it succeeded.

The court looked at all the DOL's

criteria for when a "trainee" crosses the line to "employee" – but it mostly relied on the "primary beneficiary" test.

It said Otico's training consisted of classroom work, tours of facilities, and training on FAA regulations and Hawaiian's computer system.

Otico provided no service to customers during the training – nor did she replace a Hawaiian employee.

As a result, the court ruled Otico was the "primary beneficiary" of the training since the airline derived no "immediate advantage" from it. So she didn't have to be compensated.

Case dismissed.

**Cite:** Otico v. Hawaiian Airlines Inc., *U.S. Dist. Ct. N.D. CA, No. 16-cv-02557-VC, 1/9/17.*

### ■ Rigidity in drug policy costs employer \$260K

The EEOC is coming after rigid drug policies that don't leave room for religious accommodations.

Example: The EEOC charged J.B. Hunt Transport Inc. of Lowell, AR, with discrimination for denying four Indian Sikh applicants religious accommodations in its drug policy.

One of the five articles of faith for Sikhs is maintaining uncut hair, and when the applicants refused to submit a hair sample, per J.B. Hunt's drug testing policy, they were denied employment.

The applicants filed charges with the EEOC after their requests to be tested in other ways were denied.

J.B. Hunt decided to settle the litigation by paying \$260,000 in relief.

**Info:** [www.tinyurl.com/testing481](http://www.tinyurl.com/testing481)

### ■ Jury: One move not enough to correct hostile environment

A recent jury verdict makes it clear: You can't just treat the symptoms of workplace harassment, you need to find the cure.

Mermaid Manor Home for Adults in Brooklyn, NY, just learned that lesson the hard way.

Lisa Fisher, an African-American home health aide, complained to Mermaid that two co-workers posted a picture on Instagram comparing her to a chimpanzee from "Planet of the Apes."

Mermaid then disciplined the co-workers, but it wasn't enough.

Their harassment of Fisher continued despite numerous complaints from Fisher to management, according to a hostile work environment lawsuit she filed.

A jury agreed, and Fisher was awarded \$25,000 in damages and \$250,000 in punitive damages.

The jury said while Mermaid took quick action following Fisher's harassment complaint, it ultimately failed to fix her hostile environment.

**Info:** [www.tinyurl.com/fisher481](http://www.tinyurl.com/fisher481)

# Experts give their solutions to difficult workplace problems

HR professionals like you face new questions every day on how to deal with workplace conflict and employment law. In this section, experts answer those real-life questions.

### 3 ways to prevent employee harassment from customers

**Q:** What steps can we take to prevent harassment of employees from customers or third parties?

**A:** Courts have made it clear that employers can be held liable for discrimination – no matter the source. So it's necessary to take steps to prevent third-party harassment, says employment law attorney Amy Epstein Gluck ([amy.gluck@fisherbroyles.com](mailto:amy.gluck@fisherbroyles.com)) of the firm FisherBroyles LLP. Recommendations:

- Encourage employees to report inappropriate behavior from any source, even customers. Include this in anti-discrimination policies.
- Train employees to recognize and deal with harassment and other misconduct, including that of customers.
- As an employer, once you know about discriminatory or harassing conduct by a third party, investigate it and take corrective measures.

### We require time sheets to be accurate: Is that enough?

**Q:** We know a few employees get sloppy with their time sheets and sometimes underreport their hours. But we require them to be as accurate as possible. Will that protect us from liability?

**A:** Probably not, especially if you are aware the submitted records are incorrect, says attorney Meredith Campbell ([mcampbell@shulmanrogers.com](mailto:mcampbell@shulmanrogers.com)), chair of the Employment and

Labor Group at Shulman Rogers.

In cases where employees have sued to try to collect unpaid overtime, courts have said employers have little defense when they knew or had reason to know the employees worked overtime and weren't paid for it.

Employers can address this with a clear policy requiring accurate time records, training supervisors and employees on the obligation to submit accurate time records, and rejecting and requiring resubmission of inaccurate records.

### 2 more budget-friendly ways to improve employee health

**Q:** Besides the usual – providing healthy snacks and encouraging them to walk at work – what are other cheap, effective ways we can improve employee health?

**A:** You could create standing desk areas throughout the office, says Shira Katz, staff dietician at EAT Club, a corporate catering service.

One high-top table can serve as an inexpensive standing desk for four to five people.

Another idea: Organize a lunch or after-work exercise class. You could bring in a trainer or yoga instructor for minimal cost. And if the budget's too tight, some people would happily pay \$10 to \$15 for the convenience of bringing an instructor on-site.

*If you have an HR-related question, email it to Christian Schappel at: [cschappel@pbp.com](mailto:cschappel@pbp.com)*

## EFFECTIVE COMMUNICATION

### ■ 5 tests that spice up interviews, reveal top talent

How well can the candidates you're interviewing ...

- think on their feet
- solve problems, or
- get along with others?

These are the kinds of things interview questions won't tell you. To find the answers, you've got to hold candidates' feet to the fire.

Here are five unique tests business owners said they're using to do exactly that. They shared these with *TheMuse.com*, which provides career advice and job listings:

**1. The Rubik's Cube.** Give candidates something to solve, like a Rubik's Cube or a company problem. The goal isn't necessarily for them to solve it (although that would be nice); it's to evaluate how they go about their work.

**2. A friendly competition.** Invite candidates to take part in a little friendly competition, like ping-pong (if you have a table) or checkers (for more unathletic types). It can loosen them up and reveal their true character.

**3. The Off-The-Wall Question.** Ask candidates something seemingly strange like, "If you could be any kind of car, what would you be?" This can tell you how people think on their feet and handle surprises.

**4. The Weirdo Scale.** One employer asks, "How weird are you on a scale from 1 to 10?" It asks this because it values a person's ability to be authentic and genuine, and this question evaluates how willing someone is to let his or her guard down and be honest.

**5. Aspiration gauge.** Asking a job candidate what he or she desires from a job or their career over a period of time (say three, four or five years) can reveal a number of things – like how much a person is willing to grow, how much he or she has researched the company/job and how the person may evolve.

**Cite:** [www.tinyurl.com/themuse481](http://www.tinyurl.com/themuse481)

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## WHAT WORKED FOR OTHER COMPANIES

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Our subscribers come from a broad range of companies, both large and small. In this regular feature, three of them share a success story illustrating ideas you can adapt to your unique situation.

### 1 **Shadow session brings new hires on board**

Turnover is a common problem in our industry, and our company wasn't immune.

Even with offering good benefits and better pay than competitors, we were still having trouble keeping new employees.

To find out what was going on, we conducted some exit interviews.

They revealed a significant problem we needed to address: It seemed no matter how much time we put into

our job descriptions, they couldn't quite give applicants a full picture of what their jobs would be like.

As a result, some employees would leave soon after starting – not because it was a bad job – it just wasn't quite what they expected.

#### The shadow session

Our solution? When we felt strong about a candidate after his or her initial interview, we'd have the person shadow an employee for a while.

This showed the

candidate exactly what our work environment was like, while showing the person what he or she would be doing on a daily basis.

After this shadow session, some candidates said the job wasn't for them and left, which was better than wasting resources on a bad hire.

But many did take the job. And since they started with a much clearer picture of what to expect, those employees are sticking around longer.

*(Lisa Waldron, HR manager, Richmond Baking, Alma, GA)*

**REAL  
PROBLEMS,  
REAL  
SOLUTIONS**

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### 2 **How we got 90%+ wellness participation**

Employees come to us for the great benefits we offer.

But we had reached a crossroads: We wouldn't be able to keep offering such generous benefits if we couldn't get employees to start taking better care of their health.

This drove us to adopt a unique approach to our health plans.

With the help of our provider, we rolled out a big program called "YourChoice," in which health

insurance and wellness were tied together.

#### Gave them a choice

We gave employees the choice of different plans, each with the same premiums. But in order to be eligible for the best plan, and keep premiums down, employees had to take a very active role in improving their health.

It was a far cry from filling out a health risk assessment. They had to do things like improve certain fitness levels or take part in diabetes or pre-diabetes management programs.

We placed a huge premium on preventive/evidence-based care.

Result: 97% of our workforce completed comprehensive lab work, a detailed risk assessment and a preventive exam by their doctor.

And 93% of our staff completed recommended age-based screenings, like mammograms and colonoscopies.

*(Kim Stroud, employee health benefits manager, Manatee County Government, Bradenton, FL, as presented at the 29th Annual Benefits Forum & Expo in Nashville)*

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### 3 **'Guys Jar' helped us improve communication**

We've all done it: used the word "guys" to describe a group of individuals – whether they're male, female or a mixed group.

Well, we wanted to put an end to that kind of thing, which employees referred to as "creeping sexism."

We believe that language has a way of changing the way you think – and at the same time, we're always trying to inject more diversity into what's traditionally been a male-dominated industry (information technology).

As a result, we wanted to stop using language that had a sexist tone.

#### Put a dollar in

That's when we implemented our "Guys Jar."

The concept is simple: We place a small jar in the office, and we ask anyone who wants to stop using the word "guys" in the casual sense to put a dollar in the jar whenever they're guilty of the slip of the tongue.

We're not in-your-face about it, and participation is completely voluntary.

But a lot of employees use the jar. In fact, employees tend to put a dollar in whenever they accidentally attach the wrong gender to something or someone.

When the jar's full, we pull out the money and donate it to a charity that's near and dear to us.

Example: We've donated money to Girls Who Code, a non-profit dedicated to closing the gender gap in IT fields.

It's turned into a fun way to improve how we communicate.

*(Kat Marchán, CLI engineer, npm Inc., Oakland, CA)*

### Heads up: OT rule could be reborn at state level

If the DOL's new overtime rule dies at the hands of the Trump administration, as is expected, some Democrats plan to push for similar rules at the state level.

Example: Democratic lawmakers in Connecticut, Maryland, Michigan, Rhode Island and Wisconsin have said they want to introduce bills in the mold of the DOL's rule, reported *Bloomberg*.

But they may find it hard to gain traction, as Democrats only control the legislative houses in six states, with Connecticut and Rhode Island among them. Stay tuned.

Info: [www.tinyurl.com/states481](http://www.tinyurl.com/states481)

### Trump signs executive order to slash regulations

President Trump believes cutting regulations on businesses will help them grow faster and more easily.

He just signed an executive order that directs any executive department or federal agency to identify at least two existing regulations for repeal for every new regulation the department or agency wishes to enact.

The order also asks that the cost of all new regulations put forth in 2017 be offset by the elimination of existing regulations.

It's still unclear what the regulatory process will look like moving forward.

Example: The order doesn't state if the enactment of a regulation can be delayed until two existing regulations are rescinded – or until two other regulations are marked for eventual rescission. We'll keep you posted.

Order: [www.tinyurl.com/regs481](http://www.tinyurl.com/regs481)

### Danger: Malware arriving in job applicants' files

There's a new malware attack targeting HR pros' computers.

Ransomware, a form of malware that blocks access to files until a ransom is paid, has hit inboxes dressed as job applications, according to Check Point Software Technologies Inc., a provider of IT security products.

The suspicious applications contain two email attachments:

- A PDF file containing a cover letter, with no malicious content, and
- An Excel file containing malicious content. When opened, it'll ask the recipient to allow macros to run.

Info: [www.tinyurl.com/virus481](http://www.tinyurl.com/virus481)

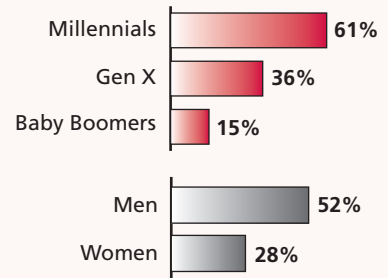
### Lighter side: 6 bad excuses for being late to work

You've heard some whoppers in your day, but can you top these real

## WHAT COMPANIES TOLD US

### Formal reviews get booed

% of employees who said they'd switch jobs from one with a formal review process to one without



Source: Adobe survey of 1,500 office workers.

You likely knew the formal performance review process was unpopular. But did you know it could be driving talent away? **One solution:** 80% of the employees surveyed said they'd prefer to receive feedback "in the moment."

Each issue of WWHR contains an exclusive survey to give executives insight into what their peers nationwide are thinking and doing.

excuses employees gave for being late?

- I put petroleum jelly in my eyes.
- I was cornered by a moose.
- I overslept because my kids changed all the clocks in the house.
- I forgot it wasn't the weekend.
- The wind blew the deck off my house.
- I thought Flag Day was a legal holiday.

Survey: [www.tinyurl.com/cbuilder71](http://www.tinyurl.com/cbuilder71)

## Sharpen your judgment... THE DECISION

(See case on Page 2)

No. The company lost when the court refused to throw Billy's lawsuit out and said it could proceed. The company's now facing an expensive trial or settlement.

Billy claimed his FMLA rights were interfered with when the employer failed to keep information about his medical condition confidential – which led to his co-workers ridiculing him about his sensitive urinary problem.

The company argued Billy's interference lawsuit lacked merit because it granted him all of the leave he requested.

The court disagreed with the company. It said under the FMLA, confidentiality of medical information is a right

employees are entitled to. As a result, it ruled Billy had presented enough evidence that the company had interfered with his right to confidentiality that his FMLA lawsuit should proceed.

### ■ Analysis: Keep medical info under wraps

This case underscores the need to remind managers of a key element of their FMLA responsibilities: keeping any info they receive about an employee's medical condition to themselves.

There are very few instances in which they should be talking about an employee's health problem – such as when presenting an FMLA request to HR or when discussing possible work accommodations. That's about it.

**Cite:** *Holtrey v. Collier Cty. Brd. of Cty. Commissioners, U.S. Dist. Ct. M.D. FL Fort Myers Div., No. 2:16-cv-00034-SPC-CM, 1/12/17. Fictionalized for dramatic effect.*

# Here's how we helped our employees 'unplug' on vacation

■ *They return to us relaxed, recharged and with new ideas*

After discovering the benefits of unplugging from work while on vacation, we wanted our employees to completely disconnect, too: no phone calls, emails or communication of any kind from the office.

"Going dark" on holiday means people can truly relax and recharge, then come back to work with new passion and focus.

### The initial reaction

Although we mandated "going dark" company-wide, most of our staff stayed plugged in.

They were worried about missing something big – or even losing their jobs – if they really left work behind.

So we developed a process to show them it's possible to take a real break and come back stronger than ever.

### The Plan

Our People Department came up with nine essential steps to help employees go dark while ensuring nothing falls apart in their absence.

They are:

1. Book your time off.
2. Choose an SPA (Single Point of Accountability) – the person who'll cover for you.
3. Update your calendar – block off your vacation dates and reschedule any meetings during that time.
4. Communicate with your team.
5. Create a plan with your SPA.
6. Make sure your SPA has everything he or she needs to succeed.
7. Set your "Out of Office" messages.
8. Schedule time to catch up when

your vacation's over.

9. Go dark!

### An opportunity

Typically, covering for someone who's on vacation seems like a burden. Now, thanks to this process, our employees see it as an opportunity to test-drive a new role, learn different skills and take on more responsibilities.

Acting as an SPA for someone who's on vacation is viewed as a benefit and a chance to discover more about their department, especially if their counterpart has properly prepped them for success.

### A pulse check

Another benefit of getting employees to go dark is that it provides a pulse check on leadership within our organization.

If the right systems and people are in place, operations will continue in a manager's absence.

If a department falls apart while a manager's gone, it's a sign that a team isn't set up for success.

### New ideas

Since we rolled out our plan, people are finding that they're able to unplug without hurting the company or jeopardizing their jobs.

We've even had people return from vacation with solid, big-picture ideas on how to improve business – and that makes all the effort that goes into coordinating coverage with an SPA worth it.

*(Brian Scudamore, Founder and CEO, O2E Brands, Vancouver, Canada)*

**Case Study:**  
**WHAT**  
**WORKED,**  
**WHAT**  
**DIDN'T**

### ■ 3 EEOC targets worth adding to your harassment training

The EEOC just issued proposed enforcement guidance on workplace harassment.

It provides a window into the kinds of things the agency's now looking to prevent – through litigation, if necessary.

### What managers must stop

Overall, there are few things in the guidance that would surprise an HR pro, but three future areas of focus may raise managers' eyebrows:

**Harassment with no intended victim.** The EEOC guidance says behavior can be harassing, even if it's not directed at a person(s).

An example would be allowing pornographic or other potentially offensive material to be displayed or discussed in the office.

**Harassment outside the office.** If management knows or should know that one worker is being harassed by another off-site, and does nothing to stop it, that's just as bad as if that harassment had occurred on company property.

Recent EEOC litigation shows this extends to customers as well. Employers have to protect workers from known harassment by customers, as well as co-workers.

**Anyone perceived to be "the boss" must know what to do.** If an employee complains to someone whom he or she believes is their "boss," it'll likely satisfy the worker's need to report harassment – and trigger an employer's need to act.

Employment law attorney Robin Shea said on her blog, *EmploymentAndLaborInsider.com*, this is more likely to happen on shifts when no true manager is on duty – like third shift.

Shea says if a worker reports harassment to a lead person who's viewed as the "boss," that lead person has to know to go to their manager or HR.

**Guidance:** [www.tinyurl.com/leec81](http://www.tinyurl.com/leec81)

## WHAT WOULD YOU DO?

Companies face competing agendas when dealing with their employees. They must find ways to inspire their people to excel, while controlling costs and staying within the law. Here we present a challenging scenario and ask three executives to explain how they'd handle it.

# Manager got promoted over his peers, now they won't listen to him

## The Scenario

HR manager Stu Capper was grabbing a cup of coffee in the break room when new manager Martin Shepard walked in.

"Hey, Martin," Stu said. "How's the new position going?"

"Well ... it's going okay, I guess," Martin said, shrugging his shoulders.

"That doesn't sound very reassuring," Stu said. "How about if we go over to my office and have a quick chat about it?"

"Sure," Martin said. "I'll be right in."

## 'Jealous they didn't get the job'

"So what's up?" Stu said, motioning Martin to take a seat.

"It's just that some of the other guys who applied for the position I got are giving me a hard time. I think they're jealous I got

promoted to management and they didn't.

"I'm having trouble getting them to take direction and, overall, I think they still view me more as an equal than a manager."

"I'm sorry to hear that," Stu said. "No doubt, we had a good pool of employees to pick from. But we chose you because we think that in addition to the technical skills you've shown, you'd make a good leader.

"I can talk things over with your team and try to sort this out."

"Hold on," Martin said. "I don't want them thinking I ratted them out or anything. Then I'd really have a tough time getting them to listen to me."

"Well, we can't let their behavior continue," Stu said. "It's not acceptable. They need to listen to you."

If you were Stu, what would you say or do next?

may only feed his employees' negativity.

Next, I'd have him look at what he's doing to make sure it isn't his management style that's triggering their behavior. For example, he might be micromanaging them.

**Reason:** It sounds like Martin has been in the trenches with those employees, which is both good and bad. It's good because he can probably relate to them. But since he knows their jobs so well, it could also lead him to micromanage. I've seen it happen before. So he needs to make sure that's not the case.

## 3 Jeni Albany, HR manager, Natural Lands Trust, Media, PA

**What Jeni would do:** One thing I'd consider is having Martin give some sort of presentation or report on a project in front of a large group of people – including members of upper management and his team.

**Reason:** Right now, it seems his subordinates view him as a peer. But once they see the new levels of responsibilities he has, they may start to view him more as a leader and follow his direction.

## QUOTES

Freedom is not of use to those who do not know how to employ it.

*Sylvia Plath*

There are two ways of exerting one's strength: One is pushing down, the other is pulling up.

*Booker T. Washington*

Carry out a random act of kindness, with no expectation of reward, safe in the knowledge that one day someone might do the same for you.

*Princess Diana*

There is no greatness where there is no simplicity, goodness and truth.

*Leo Tolstoy*

Imperfection is beauty, madness is genius and it's better to be absolutely ridiculous than absolutely boring.

*Marilyn Monroe*

People need to be made more aware of the need to work at learning how to live because life is so quick and sometimes it goes away too quickly.

*Andy Warhol*

## Reader Responses

### 1 Donald Avery, VP of HR, Vela Insurance Services, Chicago

**What Donald would do:** I'd try to find out as much as I can – What is Martin's management style? How do his employees react to that form of management?

Then, I'd take that info to Martin's manager and sit down with him or her to come up with a solution. I want to get his manager's input before we put a plan of action in place.

**Reason:** The most important thing a leader can do is understand the specifics of the behavior. Only then can you come up with an effective and appropriate solution.

### 2 Natalie Duda, corporate relations coordinator, Sdii Global Corporation, Tampa, FL

**What Natalie would do:** First, I'd tell him to stay positive. It sounds like the situation has him a little down. But being negative