**CASE 1 Chronic Complainer Drags Company to Court**

One of a manager’s hardest tasks: Dealing with a difficult employee who’s constantly making frivolous complaints. What can supervisors do without being accused of retaliation?

A recent court case involved an employee who didn’t get along with his boss or his co-workers. He claimed his supervisor treated him different than younger, female employees.

Throughout his employment, he filed several complaints with management and HR. For example, he alleged:

* his supervisor refused to take his suggestions during staff meetings
* his work was monitored more closely than other workers’, and
* a performance review that labeled him as a difficult employee was the result of age and gender bias.

HR investigated each complaint, but could find no evidence of discrimination. The conclusion: The employee was “sensitive to feedback” and needed to work out his personal conflict with his supervisor. After each investigation, he was told to improve the relationship and “move on.”

**Can manager discipline constant complainer?** The company began outsourcing some of its operations and had to shrink the employee’s department. He was one of the employees chosen to be terminated.

He sued, claiming he was treated unfairly because of his gender and fired in retaliation for his complaints.

The company argued that all of the employee’s complaints were handled properly and the company issued  appropriate responses. The constant complaints were disrupting the workplace, so the employee was asked to improve the relationship with his boss.

**CASE 2** [**Applicant sues after manager told her why she wasn’t hired**](http://www.hrlegalnews.com/managers-comments-cost-company-a-court-case/)

Here’s an example of a company that got in big legal trouble after a hiring manager gave an applicant an inconsistent explanation of why she didn’t get the job.

A 53-year-old woman applied for a job at a Starbucks store. During her interview, the hiring manager mentioned a concern with the availability listed on her application. The applicant then explained she would be flexible and could be available more frequently than the hours she listed.

Still, the woman wasn’t hired, because of the availability listed on the application, as well as “disrespectful body language” during the interview and her conduct afterward.

The applicant called the manager and visited the store to ask why she wasn’t hired. Each time, the manager gave the same answer — the availability listed on her application — without mentioning the other factors. She sued, claiming her age was the real reason.

<http://www.hrlegalnews.com/managers-comments-cost-company-a-court-case/>

**CASE 3 Didn’t accommodate quick enough?**

The Americans with Disabilities Act requires employers to engage in an “interactive process” to find reasonable accommodations for disabled employees. The law’s not specific about how to do so, but missteps can lead to costly lawsuits.

Here’s a case where an employee sued because she thought her company took too long to accommodate her — even though she got everything she asked for in the end.

The woman was diagnosed with a rare blood disease and could no longer perform all the duties of her job. Specifically, her doctor said she needed to avoid highly stressful activities.

She told her boss what she could and couldn’t do, and the employer temporarily placed her in a different position, keeping her salary the same.

Due to staffing concerns, the transfer couldn’t be permanent, so the company tried to rearrange her old job to accommodate her. As requested, some of her duties were removed, and restrictions were placed on when her shifts could be scheduled.

But she sued the company anyway. Why? She claimed it took the company too long to figure out an accommodation.

**CASE 4 Armed employee says desk search invaded his privacy**

Employers have a duty to keep their workers safe. But how far can they go without infringing on employees’ individual rights?

Read the facts of this real-life case and decide: Who won?

**The facts:**

An employee’s desk was searched after he submitted a questionable expense report for a company-issued cell phone. Nothing related to the expense report was uncovered, but the manager did find — inside a locked drawer — a pellet gun and ammunition. This violated a company policy against bringing weapons to work, and the man was fired. He sued, claiming the company invaded his privacy by searching his desk without his permission.

**The employer said:**

The employee had no right to privacy when it came to an employer-owned desk. The company didn’t need permission to search its own property.

**Who won the case?**

**CASE 5 Co-workers claim they can’t understand her… Is that bias?**

In a diverse workplace, you might need to give supervisors some extra sensitivity training to avoid illegal bias.

In one recent court case, an employee complained that she was regularly harassed by co-workers because of her national origin.

She was originally from Mexico and spoke Spanish as her first language. Other employees had problems with her limited English — she claimed they would often respond to her comments by yelling, “What? What?” or “I do not understand you.”

The woman complained to her boss about how she was being treated, but no action was ever taken. The manager’s reaction: They were just voicing legitimate complaints about her communication skills.

But she didn’t see it that way — she sued the company for allowing a hostile work environment.

**CASE 6 Rappin in the workplace**

A lot of things can lead to lawsuits against employers — like an employee’s taste in music.

In one recent case, an African-American employee sued for racial harassment. The culprit: A rap CD played loudly by a co-worker.

The co-worker would often listen to the music and sing along — including a bevy of racial slurs — within the employee’s earshot. He told his boss and co-worker the language was offensive, but the music never stopped.

Did these complaints hold up in court?

**CASE 7 Bus drivers treated differently for same infraction**

Two employees are caught breaking the same rule. One has had behavior problems in the past, the other hasn’t. Can their manager legally fire one and not the other?

In many situations, yes, as long as the documentation is in order. But here’s a case where a manager’s flexibility went too far — and got the company in big trouble:

A male bus driver was fired after dropping a student off at an unauthorized stop, in violation of the school district’s policy.

The problem: A few other drivers, all female, had broken the same rule but were never disciplined.

So the male driver sued, claiming he was fired because of his gender.

His manager argued the decision was partially based on the man’s previous performance — during his tenure, he’d been involved in one accident, and the school district had gotten several complaints about him from students’ parents.

His unauthorized stop was just the final straw.

What did the court think?

**CASE 8 Heart attack caused by layoff?**

Should employees get workers’ compensation benefits when they develop health problems caused by job-related stress? Yes, according to one court.

Here’s what happened in this recent case:

A 60-year-old employee was told her job was being eliminated after 25 years of working for the employer. She started crying and got permission from her boss to take the rest of the day off.

At home, about an hour after getting the news, the woman suffered a permanently disabling heart attack. Her doctor said she’d been healthy and that the incident was caused by the stress of hearing she was losing her job.

She was awarded accidental disability benefits. The company appealed, arguing she wasn’t eligible because the injury didn’t occur as a result of her job duties.

**CASE 9 Cop fired for racy MySpace photos**

Apparently, this Iowa police officer had some trouble understanding MySpace’s privacy settings.

A local resident notified the Altoona, IA, police department after he discovered cop Abigail Keller’s MySpace page containing inappropriate photos of her at a bar. In one shot, she was mooning the camera, while in others she performed simulated sex acts, Associated Content [reports](http://www.associatedcontent.com/article/1919350/police_officer_abigail_keller_fired.html?cat=9).

Keller’s response: The pictures were posted a few years ago, before she was hired — and she (mistakenly) believed her profile was blocked from public view.

The department fired her. Was that the legal thing to do?

**CASE 10 Can employee sleep on the job? (ADA = Americans with disabilities act)**

HR often must go to great lengths to accommodate employees with disabilities. But does a company have to go as far as letting someone nap at work?

In one recent case, an employee was fired after dozing off during duty.

His job: flight instructor for Southwest Airlines. Frequently he would fall asleep while giving lectures. The problems continued for about a year and a half before he was terminated.

The employee suffered from sleep apnea — meaning he often couldn’t control when he fell asleep. He told his manager the problems would be limited if his shift was changed — but that would have required other employees working longer, so no change was made.

He also argued that he could work just fine despite his condition. But the company wouldn’t take any chances — after all, his job was to make sure pilots could do their jobs safely. So, without any other options, the company fired him.

He sued, claiming Southwest fired him because of his disability, in violation of the Americans with Disabilities Act (ADA).

**CASE 11 Slanderous email??**

An employee is fired after stealing from the company. To warn employees about the consequences of that behavior, his manager e-mails the rest of the staff explaining the termination. Is the company guilty of libel?

Read the facts of the real-life case and decide: Who won?

**The facts:**

During an audit of travel expense reports, the company discovered that one employee had requested a total of $1,622 more than he actually spent and pocketed the difference. The employee admitted that he often filled out expense reports before he traveled, estimating how much money he would spend — which was against company policy. He also acknowledged making other “mistakes” that led to him being overpaid. He was fired.

His manager sent an e-mail to the rest of his staff telling them about the termination. The e-mail stated the employee “was not in compliance with our travel and expenses policies,” and reminded employees that “compliance with company policies is not optional.”

After he found out about the e-mail, the employee sued the company for libel.

**The employer said:**

Everything the manager said in the e-mail was true. There was no intention to defame the employee’s character, just to remind employees that the company takes its policies seriously.

**Who won the case?**

**CASE 12 Ex-Executive bashes company online**

An employee gets fired and, in a fit of anger, runs home and posts confidential corporate info to a public Web site. You can get that taken down and protect your company — can’t you?

Read the facts of this real-life case and decide: Who won?

**The facts:**

A vice president was fired by the bank he was working for. Disgruntled, he uploaded some confidential company documents to a public site designed to leak private government and corporate information, allegedly to expose illegal activity. The company sued the owners of the site to get the documents removed and the site shut down.

**The employer said:**

Leaving the info posted violated the law – the former VP had signed a confidentiality agreement and the documents contained private information about the company and its customers.

**CASE 13 Employee sues over “mixed signals”**

An employee gets terminated and is given two different reasons for being let go. She sues the company, charging that the mixed signals prove she was let go so that the supervisor could hire a man to replace her. Who won this real-life case?

The scene:

Warren Bridges looked at the copies of the e-mails handed to him by HR manager Susanna Diaz. “Yes, I wrote both of those,” he said. “So what?”

Susanna looked over her copies as she replied: “Well, you sent them to Lori a couple of weeks before you fired her. The first one says her performance is a problem ‘and could result in your termination.’ The second one thanks her for her service and says you had to let her go ‘as part of a companywide reduction in force.’”

“Right,” Warren nodded. “I was trying to let Lori down easy and say she got caught in a RIF.”

“Here’s the problem,” Susanna explained. “You replaced her with a man.”

“And …” Warren said.

“You gave her conflicting reasons for letting her go — poor performance and a RIF,” she said. “First, we never had a RIF. Second, with all the confusion about the real reason for firing her, you replace her with a man. That looks fishy.

Warren sighed. “I still don’t see the big deal.”

**CASE 14 Boss opens fired employee’s mail**

After an employee is let go, his mail keeps coming in, and the boss opens it, believing it’s all business-related. However, some of it is confidential, and the fired employee sues over invasion of privacy. Who won this real-life case?

**The facts:**  
One of the pieces of mail contained a letter — mistakenly addressed — from the employee’s lawyer. The letter contained details of a discrimination suit the employee was planning to file against the employer in connection with the firing.

The supervisor opened the letter, believing it to be standard business correspondence that need to be dealt with because the employer was no longer there. After seeing the contents of the letter, the supervisor made a copy and kept it in a file in case the employee did file the lawsuit.

**The employer said:**  
The letter was sent to the company’s address, and as such was company property. And the supervisor hadn’t opened the letter with the purpose of learning confidential details of a lawsuit, so there was no intent to invade the employee’s privacy. **Who won the case?**

**CASE 15 What is gross misconduct?**

The company’s handbook said that employees fired for “gross misconduct” would not receive pay for earned but unused vacation time. The term “gross misconduct” was not defined.

One employee was fired after he failed a mandatory drug test. He did not receive any vacation pay.

He sued, claiming a failed drug test didn’t reach the level of gross misconduct and demanded a payout for the leave he didn’t use.

**CASE 16 Did his boss make him sick?**

Employees can claim ADA protection for a variety of physical and mental conditions. But is work-related stress one of them?

In one recent case, an employee was diagnosed with anxiety and depression. He had sleeping problems and needed a short stay in the hospital after a panic attack.

The apparent cause: the employee’s boss. He claimed the problems began after receiving two negative performance reviews and being told he needed to increase his sales.

As his performance problems continued, the last straw came after he broke company policy by misusing his corporate credit card. He was fired.

The employee sued, claiming he was terminated because of a disability.

**CASE 17 Fired for ALL CAPS emails**

Writing in all caps is one of the most annoying e-mail etiquette breaches. But would one of your managers fire someone for it?

That’s exactly what happened to one woman in New Zealand. Vicki Walker, former controller for a health care company, was fired for sending what her boss called “confrontational” e-mails.

For example: One message advising her staff on how to fill out claim forms contained text in all capitals, as well as some statements in bold and red fonts.

Walker took the company to court for wrongful termination (New Zealand employees can only be fired for cause). The company defended its action by arguing that she caused “disharmony in the workplace.”