

EMPLOYMENT TIPS

(or a few stupid things cities sometimes do)

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It may be that your city officials and employees are already insane, and may not require the advice that follows. After all, everyone knows it is very easy to keep (former) employees and their counsel from getting their greedy hands on the public fisc. Sovereign immunity always rules: the king can do no wrong. If you believe your city officials and decision-makers need just a bit of assistance to successfully make employment decisions, and to keep the city out of trouble, we humbly offer the following understated suggestions:

1. **Always destroy emails and other evidence, especially after a notice of claim has been filed or a lawsuit has been served.** You can always just pretend the evidence never existed. “Part of the inhumanity of the computer is that once it is competently programmed and working smoothly, it is completely honest” — Isaac Asimov. “To err is human, but to really foul things up requires a computer” — Farmer’s Almanac 1978.

Get your facts first, and then you can distort them as much as you please — Quoted in Kipling, *Sea to Shining Sea*, 1899 Letter 37

2. **Always fire an employee immediately after he reports a workers compensation claim or files a report of illegal activity (or even questionable illegal activity) against a fellow employee (or even the city manager or police chief).** Above all, do not be (or even appear to be) reasonable.

I can’t do no literary work the rest of this year because I’m mediating another lawsuit and looking around for a defendant — Mark Twain, letter to a friend

3. **Never document an employee who misbehaves.** After all, it is much easier just to talk to employees who do not follow the city's policies. Documenting employee misbehavior (especially criminal acts) is such a hassle.

There are people who think that honesty is always the best policy. This is a superstition there are times when the appearance of it is worth six of it — attributed to Mark Twain

4. **City Council members should always try to reach a consensus through email exchanges, and not carbon copy important City personnel, before a City Council meeting.** Isn't it reasonable to discuss the issue (especially between a quorum of the Council) before voting in public? After all, it's too revealing to debate important issues in a public meeting.

Man is the reasoning animal. Such is the claim. I think it is open to dispute — Mark Twain, The Lowest Animals essay, 1897

5. **City officials and employees should always tell the newspaper and TV what they have done, and why, before they tell the City Attorney.** For example, you could tell a TV reporter (on videotape would be even better) that "I fired the chief of police because everybody knows that a woman can't do the job." The more illegal your statement to the media under the First Amendment, the more success you will have to drive your City Attorney (and City Manager) crazy.

The history of our race, and each individual's experience, are sown thick with evidence that a truth is not hard to kill and that a lie told well is immortal — Mark Twain, Advice to Youth speech, 1892

6. **Always retain the same attorney to defend both the City and an employee who violates policy.** This will eliminate those costly attorneys' fees and never make you look bad (a/k/a — the "You can't fix stupid" principle).

His ignorance covered the whole earth like a blanket, and there was hardly a hole in it anywhere — Attributed to Mark Twain, DeVoto, Mark Twain in Eruption, 1940, p. 180

7. **Always allow your City Councilmembers to feely give sworn testimony.** After all, they are the policymakers (hopefully) and surely will tell exactly what motivated them when they voted. How can this hurt any city? *See Cunningham v. Chapel Hill ISD*, No. 6:06cv69 (E.D. Tex. 2006)

8. **Always give former employees every City document (through open record requests). Never ask to withhold a City document through an Attorney General's opinion.** This is especially helpful if there are documents that contain admissions against interest or impeachment evidence against the City. How could the truth hurt? *See In re Jobe*, 42 S.W.3d 174 (Tex. App. — Amarillo 2001, orig. proc.)

In this world the real penalty, the sharp one, the lasting one, never falls otherwise than on the wrong person — attributed to Mark Twain, Neider, Autobiography, 1959, ch. 39

9. **Never use common sense. Always try to make a federal judge angry at the City.** It is good to, and you will usually win the case when you, have a federal judge (who is appointed for life tenure by the United States government) write that a city is playing “dirty pool”, and that the city’s argument is “astounding,” “strains credulity,” “requires a quantum leap of faith,” and would require that “both *Black’s Law Dictionary* (8th ed.) and *Merriam-Webster’s Collegiate Dictionary* (11th ed.) need to [be rewritten].”

The department interpreters of the laws in Washington... can always be depended on to take any reasonably good law and interpret the common sense all out of it — Mark Twain, Letter to H.C. Christiancy, December 18, 1887

10. **THE “SON OF A BITCH” FACTOR: It is always good to hire criminals (especially if you don’t do a criminal background check and don’t require that the employee certify that they have never been convicted of any crime).** This will keep you from embarrassing him about his prior behavior (even if he has stalked or threatened to kill multiple people). Ergo, always adhere to the hiring principle: “he’s the worst son of a b***ch that ever walked.” *See Burris v. Willis ISD*, 713 F. 1087, 1096 n. 6 (5th Cir. 1983).

Reflection is the beginning of reform. There can be no reform without reflection. If you don’t reflect when you commit a crime then that crime is of no use. It might as well have been committed by someone else — Mark Twain, Watermelon speech, 1907

If you carefully and meticulously follow these rules, and all the principles they imply, you will surely be successful making employment decisions. (Not!)

Now let that teach you a lesson — I don’t know just what it is.
Mark Twain, Memories speech, 1906