



Employers Seek Advice on Ashley Madison Scandal

News

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Tim Scott was quoted in *New Orleans CityBusiness* on September 1, 2015. The article “Employers Seek Advice on Ashley Madison Scandal” discussed how the recent hacking of AshleyMadison.com, a website intended to connect married spouses with others seeking extramarital affairs, has publicly embarrassed business professionals nationwide and left questions for employers.

Tim said the decision to fire ultimately depends on “reputational risk, which includes two elements: the nature of the business, and the nature of the employee’s job.

“For example, if your organization provides marital counseling, then the employee’s membership, now known to the public, could affect your organization’s reputation,” he said.

“If the employee is one of the faces of the company, an employer may not want him or her representing the company after a scandal such as this,” he added.

“In Louisiana, employees are employed on an at-will basis and can be fired at any time, with or without prior notice, for any or no reason provided that the termination does not violate one of the many statutory protections found in the law or an existing employment contract,” Scott said. “If an employer does decide they want to terminate an employee for being a customer of the Ashley Madison or any other type of off-duty conduct, it should first determine whether that activity is ‘protected’ or not.”

When it comes to the two types of lawful, off-duty conduct, one is protected and one is not, he added.

“In Louisiana, an employer cannot terminate an employee for off-duty political activities (including supporting or opposing a particular candidate) or for smoking or using tobacco products,” he said. “Also, an employer cannot terminate an employee for pursuing certain legal claims or filing or threatening to file a complaint against an employer with most state and federal agencies (whistleblowing).”

However, there is off-duty conduct that is not protected.

“There is nothing that would protect an individual who chooses to go on a website designed to enable them to cheat on his or her spouse,” he said. “Other off-duty conduct that is not protected: legal marijuana use. arrests/convictions. gambling. drinking. Mardi-Gras related activities. etc.”

To read the full article, please visit [New Orleans CityBusiness](#). [subscription required]

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