



What Employers Can Learn From Major League To Avoid Big League Problems

Insights

10.15.19

The iconic sports movie, *Major League*, premiered 30 years ago. Three decades later, nearly everyone remembers the classic comedic scenes with characters such as Ricky “Wild Thing” Vaughn (Charlie Sheen), Jake Taylor (Tom Berenger), Willie Mayes Hayes (Wesley Snipes), and Pedro Cerrano (Dennis Haysbert).

For those who need a refresher, the movie recounts the struggle and rise of a fictionalized Cleveland Indians baseball team. New team owner Rachel Phelps hates Ohio and wants to relocate the team to Miami. To accomplish her goal, she trades nearly all the talented players and signs a cast of misfits and unknowns, hoping the team finishes dead last in attendance thereby relieving her of the obligation to keep the team in Cleveland. To lead them, she hires Manager Lou Brown (James Gammon) from a local tire repair shop. He is initially hesitant about the opportunity because he “has a guy on the other line about a set of whitewalls.”

With the World Series just around the corner, what can employers learn from the slapstick comedy on its 30th anniversary? Those who watch the movie carefully will observe that the Indians faced several issues you often see in your own workplaces.

Religious Discrimination

In one of the movie’s iconic scenes, Pedro Cerrano, a Cuban-born baseball player who struggles with hitting curveballs, prays for assistance from a fictionalized deity named Jobu. When his teammates ask him what he is doing, Cerrano responds that he is offering the deity rum and a cigar so that Jobu will come and “take fear” from his bats and allow him to hit curveballs. Pitcher Eddie Harris scoffs at the notion and recommends in his own colorful way that Cerrano should practice more traditional religion.

While intended to be funny, this scene reminds employers that these kinds of exchanges are inappropriate in the workplace. You should maintain and enforce policies that foster a civil workplace and should accommodate people’s religious beliefs. Employers with dress codes, for example, typically must accommodate religious garments and headwear. Finally, you should generally refrain from questioning the sincerity of an employee’s religious beliefs or requests for religious accommodation – employers who do so without first consulting an attorney do so at their peril.

Age And Disability Discrimination

Near the beginning of the film, the newly signed players arrive for spring training, including veteran catcher Jake Taylor. He had recently been playing baseball in Mexico because no one in the MLB would sign him due to his bad knees. Manager Lou Brown asks Taylor how his knees are and if he is "100%." Taylor responds that "he feels great" to which Brown responds, "you had better say that if you want to make this team."

Such comments in the workplace might evidence a hostile work environment, or could provide a plaintiffs' attorney with direct evidence of age or disability discrimination. Therefore, you should have clear policies prohibiting age and disability discrimination. Likewise, you should discipline supervisors and managers for making stray remarks about an employee's age or health to prevent a hostile work environment from forming.

Ban-The-Box

Perhaps the most colorful and memorable character in *Major League* is Rick "Wild Thing" Vaughn. He arrives at training camp on the back of a motorcycle with little more than the clothes on his back. Given his haggard appearance, his future teammate Willie Mayes Hayes asks him what league he had been playing in. Without missing a beat, the Wild Thing replies, "California Penal." During his first pitching performance, radio announcer Bob Uecker introduces Vaughn as being a "juvenile delinquent in the offseason."

While Vaughn's criminal background was a source of hilarity in the movie, a real-life employer asking about an applicant's criminal history is no laughing matter. Several states, counties, cities, and municipalities have implemented ban-the-box rules prohibiting you from asking questions about criminal history or convictions on job applications. Some versions of these laws permit you to ask about such convictions only after you have tendered an offer of employment. For this reason, you should consult your attorney to ensure your applications and hiring practices are compliant with the laws in your area.

Protected Concerted Activity And Safety Concerns

Finally, aficionados of *Major League* will remember Roger Dorn, the Indians' high-maintenance third baseman and the only established player remaining on the team after most of the other regulars were traded away. At training camp, Dorn becomes irate because Manager Brown requires the team to participate in calisthenics. Dorn brings his contract to Brown and shows him that it provides that he is not required to perform any stretching he deems "unnecessary." Brown crudely and silently rejects Dorn's complaints in a scene that is better seen than described.

What can you learn from this scene? First, employers who develop stretching programs often see benefits by way of the reduction in soft-tissue injuries. However, OSHA takes the position that providing an employee a stretching or exercise regime after the employee presents with pain or discomfort constitutes medical treatment, and therefore would be an OSHA recordable event. OSHA justifies this position by stating that it considers therapeutic exercises and stretching as a form of physical therapy and does not consider it a first-aid treatment.

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Second, imagine Dorn and a second employee had lodged a complaint with their manager about working conditions. An employer who disciplined Dorn and his coworker for making such a complaint, or discouraged Dorn and his coworker from making such a complaint, may find themselves defending an unfair labor practice charge. Section 7 of the NLRA provides unionized and non-unionized employees alike with the right to engage in concerted activities for mutual aid and protection – or what is often referred to as the right to engage in protected-concerted activity. This often takes the form of complaining about the terms and conditions of employment, so be wary when responding to an employee's safety concerns.

Conclusion

Now is the time for *Major League* fans to revisit the movie in honor of its 30th anniversary. Meanwhile, you should revisit your policies given the lessons listed above. Make sure you are cautious when dealing with these areas of the law, and consult your Fisher Phillips attorneys if you require further guidance or wish to discuss this fine example of American cinematography.

This Legal Alert provides an overview of several potential workplace situations. It is not intended to be, and should not be construed as, legal advice for any particular fact situation.

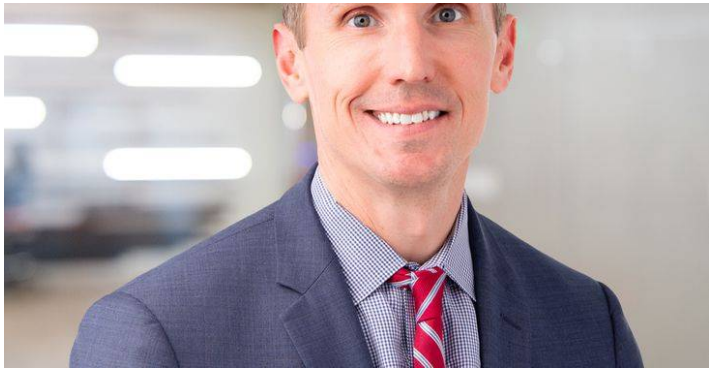
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