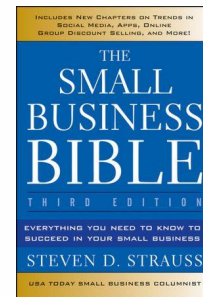


Common HR Mistakes Small Businesses Make

Webinar presented by **Steve Strauss**
Bestselling author and USA TODAY columnist
MrAllBiz.com

In partnership with



Overview

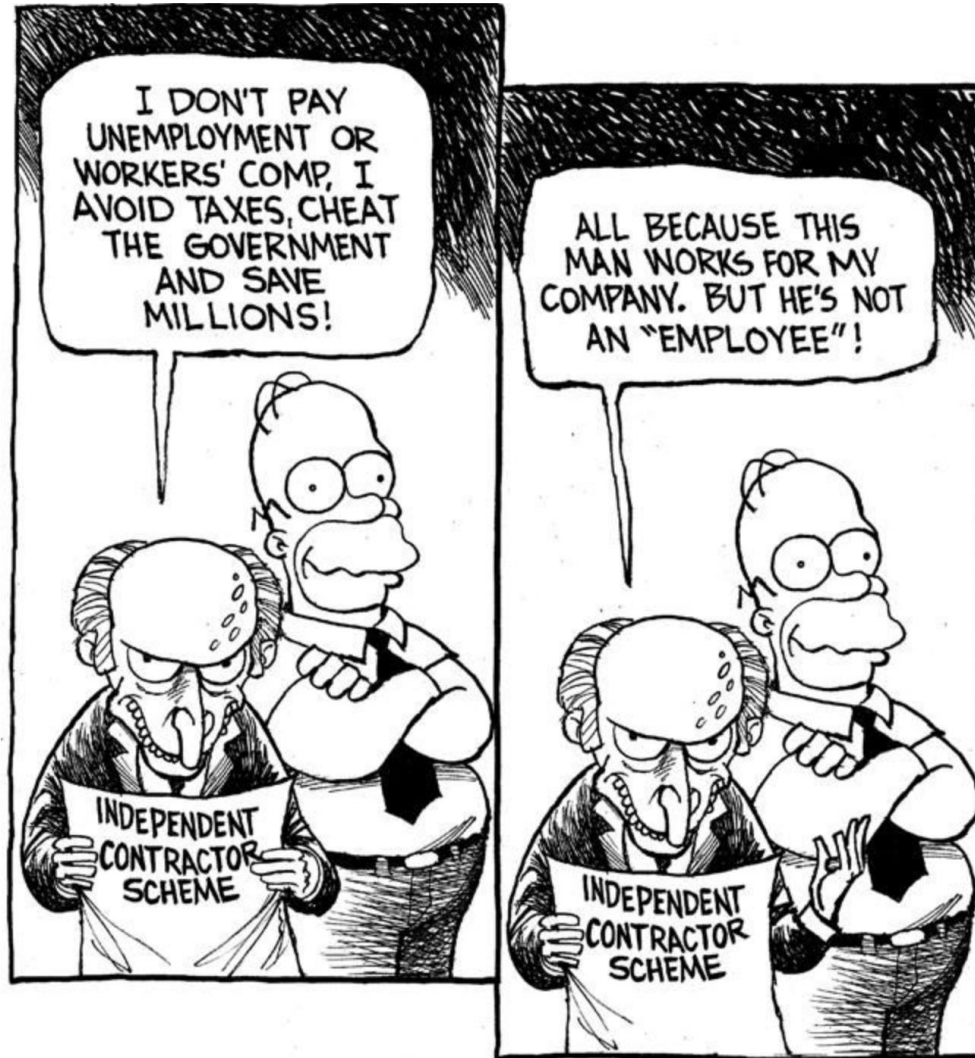
- Common Mistakes
 1. Mixing Up Employees and Contractors
 2. Discrimination in Interviews and Hiring
 3. Handling Employee Terminations Poorly
 4. Ignoring Applicable laws
 5. Recordkeeping Issues
- Q &A Interview with Jaime Lizotte,
ComplyRight HR Solutions Manager

2 Types of Small Business Mistakes



Mistake #1

Mixing Up Employees and Contractors



KEVIN SIER'S ©2014 CHARLOTTE OBSERVER WITH APOLOGIES TO MATT GROENING + THE SIMPSONS

Employees Are Not Independent Contractors

- 2-part test:
 - Contractors decide when, where, and how to do the work.
 - Contractors provide their own tools to do the work and expenses are typically reimbursed.

Contractors Are Not Employees



Red Flags



- Business owner (or supervisor) manages the worker
- Worker is given a specific work schedule/office hours
- Worker works full-time for the business/at the business
- Worker uses equipment owned by the business
- Relationship is open-ended, with no clear scope or deadline
- Worker provides an SSN, not a business EIN, for tax purposes

Risks

- Government agencies are watching
- Employee rights agencies are available to the worker: DOL, EEOC, state agencies
- Agencies have bias toward treating workers as employees
- Risks include back taxes, back wages, back premiums & lawsuits



How to Fix It

EMPLOYEE OR CONTRACTOR?

Tips to Get It Right

- Make sure ICs have a business name and EIN
- Use an “Independent Contractor Agreement”
- Define scope of work and establish milestones up front
- Require IC to use his/her own equipment
- Set up IC as vendor and require him/her to submit invoices

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Recommended Solution

EFILE4BIZ.COM



- Simple, secure and affordable way to deliver and file 1099, W-2 and ACA reporting forms
- Fill out the forms directly on the website or upload your data from QuickBooks®, Xero or an Excel template
- Forms are printed and mailed to recipients and e-filed directly with the IRS or SSA

FILE 1099, W-2 AND ACA FORMS ONLINE AT:

efile4**biz**.com

Mistake #2

Discriminating in Interviews and Hiring

The Too Candid Candidate



Am I Right?

Protected Classes

- **Race** – Civil Rights Act of 1964
- **Religion** – Civil Rights Act of 1964
- **National origin** – Civil Rights Act of 1964
- **Age** (40 and over) – Age Discrimination in Employment Act of 1967
- **Sex** – Equal Pay Act of 1963 and Civil Rights Act of 1964
- **Pregnancy** – Pregnancy Discrimination Act
- **Citizenship** – Immigration Reform and Control Act
- **Familial status** – Civil Rights Act of 1968
- **Disability status** – Americans with Disabilities Act of 1990
- **Veteran status** – Vietnam Era Veterans' Readjustment Act
- **Sexual and Gender identity** – Constitutional Case Law

Illegal Questions

INTERVIEW QUESTIONS

You Can Never Ask
Job Applicants — and
What to Ask Instead



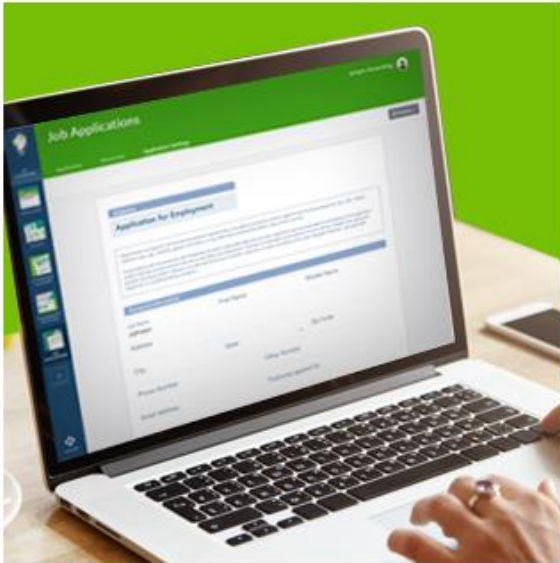
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- Are you married?
- Do you have kids?
- What's your religion?
- Are you pregnant?
- What are your plans if you get pregnant?
- What's your race/nationality?
- How much do you weigh?
- What's your sexual preference?
- How old are you?
- Do you have any disabilities or health problems?
- What prescription drugs are you taking?
- Do you use drugs, alcohol or smoke?
- Are you gay?

Recommended Solution

JOB APPLICATIONS SMART APP



- Expand your recruitment reach with more ways to share your application: online, via email or printed out for walk-ins
- Create a 100% compliant application based on your state's current hiring laws
- Ask the right questions without overstepping your legal bounds
- Receive notifications of legal changes, as well as helpful retention alerts

SHOP NOW:

HRdirect
smart apps

Mistake #3

Handling Employee
Terminations Poorly

First Problem:

Not Firing Someone Who Deserves It

- Problem employees cost money!
- Lack of productivity
- Costly mistakes
- Rework
- Team productivity
- Bad for Morale
- Potential loss of business
- Legal risk



Red Flags

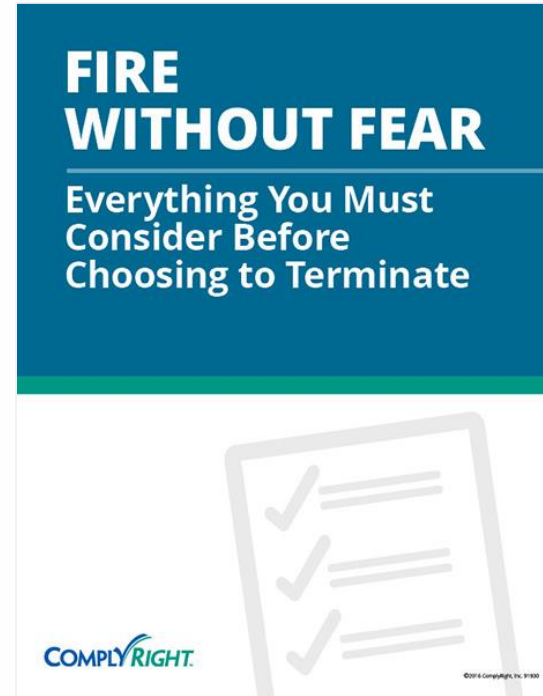


- Ongoing workplace conflict
- Obvious 'bully' behavior
- Employee won't share information
- Making excuses for the employee
- Low morale
- Customer and / or vendor complaints



How to Fix It

- Training
- Communication
- Documentation
- Letting go



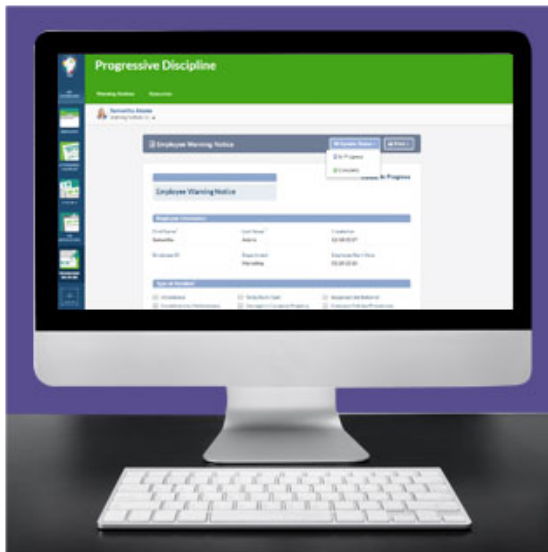
Second Problem: The Firing Process

- At-Will employment explained
- However, alleged discrimination possible
- Lack of documentation
- Lack of communication



Recommended Solution

PROGRESSIVE DISCIPLINE SMART APP



- Address employee disciplinary issues promptly and appropriately
- Record incidents the exact same way to ensure consistency and fairness
- Creates an at-a-glance history for easier tracking of ongoing problems
- Provides solid documentation that protects your business if a legal dispute arises

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smart apps

Mistake #4

Ignoring Applicable Laws

Employment Eligibility

Form I-9 employment eligibility is required of every employee

		Employment Eligibility Verification		USCIS							
		Department of Homeland Security		Form I-9							
		U.S. Citizenship and Immigration Services		OMB No. 1615-0047 Expires 08/31/2019							
EmpID: 01234567											
<p>► START HERE: Read instructions carefully before completing this form. The instructions must be available, either in paper or electronically, during completion of this form. Employers are liable for errors in the completion of this form.</p> <p>ANTI-DISCRIMINATION NOTICE: It is illegal to discriminate against work-authorized individuals. Employers CANNOT specify which document(s) an employee may present to establish employment authorization and identity. The refusal to hire or continue to employ an individual because the documentation presented has a future expiration date may also constitute illegal discrimination.</p>											
Section 1. Employee Information and Attestation <i>(Employees must complete and sign Section 1 of Form I-9 no later than the first day of employment, but not before accepting a job offer.)</i>											
Last Name (Family Name) ?		First Name (Given Name) ?		Middle Initial ?	Other Last Names Used (if any) ?						
Stanford		Employee		N/A	N/A						
Address (Street Number and Name) ?		Apt. Number ?	City or Town ?		State ? ZIP Code ?						
123 Stanford Ave.		N/A	Stanford		CA 94305						
Date of Birth (mm/dd/yyyy) ?	U.S. Social Security Number ?		Employee's E-mail Address ?		Employee's Telephone Number ?						
11/01/1985	123-45-6789		employee@stanford.edu		(650)723-2300						
<p>I am aware that federal law provides for imprisonment and/or fines for false statements or use of false documents in connection with the completion of this form.</p> <p>I attest, under penalty of perjury, that I am (check one of the following boxes):</p> <table border="1"><tr><td><input type="checkbox"/> 1. A citizen of the United States ?</td></tr><tr><td><input checked="" type="checkbox"/> 2. A noncitizen national of the United States (See instructions) ?</td></tr><tr><td><input type="checkbox"/> 3. A lawful permanent resident ? (Alien Registration Number/USCIS Number): ?</td></tr><tr><td><input type="checkbox"/> 4. An alien authorized to work ? until (expiration date, if applicable, mm/dd/yyyy): ? Some aliens may write "N/A" in the expiration date field. (See instructions)</td></tr></table> <p>Aliens authorized to work must provide only one of the following document numbers to complete Form I-9: An Alien Registration Number/USCIS Number OR Form I-94 Admission Number OR Foreign Passport Number.</p> <table border="1"><tr><td>1. Alien Registration Number/USCIS Number: ? OR 2. Form I-94 Admission Number: ? OR 3. Foreign Passport Number: ? Country of Issuance: ?</td><td>QR Code - Section 1 Do Not Write in This Space</td></tr></table>						<input type="checkbox"/> 1. A citizen of the United States ?	<input checked="" type="checkbox"/> 2. A noncitizen national of the United States (See instructions) ?	<input type="checkbox"/> 3. A lawful permanent resident ? (Alien Registration Number/USCIS Number): ?	<input type="checkbox"/> 4. An alien authorized to work ? until (expiration date, if applicable, mm/dd/yyyy): ? Some aliens may write "N/A" in the expiration date field. (See instructions)	1. Alien Registration Number/USCIS Number: ? OR 2. Form I-94 Admission Number: ? OR 3. Foreign Passport Number: ? Country of Issuance: ?	QR Code - Section 1 Do Not Write in This Space
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1. Alien Registration Number/USCIS Number: ? OR 2. Form I-94 Admission Number: ? OR 3. Foreign Passport Number: ? Country of Issuance: ?	QR Code - Section 1 Do Not Write in This Space										
Signature of Employee ? <i>Employee Stanford</i>				Today's Date (mm/dd/yyyy) ? 03/27/2017							

Salary vs. Hourly

Do not put someone on salary who should be paid hourly in order to try to avoid paying overtime

- Risks: Back wages x2, lawsuits, fines
- Biggest litigation risk for employers
- FLSA lawsuits reached record high in 2016



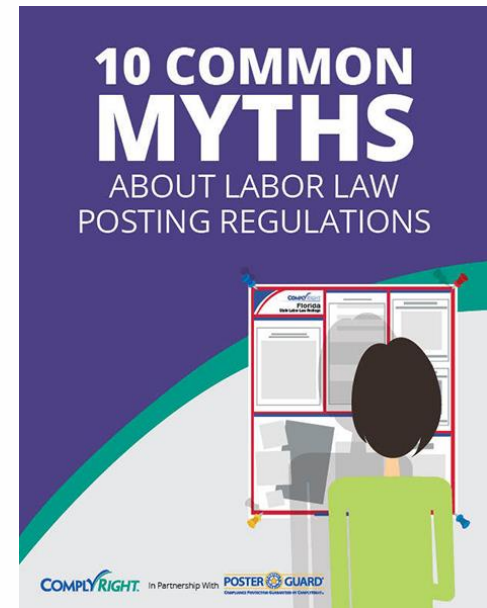
Red Flags



- Everybody is on salary
- Employees are put on salary based on title, not job duties
- Workers with similar job duties are paid differently (salary vs. hourly)
- Salaried employees are frequently required to work OT

State and Local Laws

- State labor laws changed greatly in 2017
- Minimum wage increases occurred in 75 different states, cities and counties
- Much has to do with labor law posters –
 - From 2013 to 2017, 376 employment law updates required revisions or additions to labor law posters
- Paid sick leave laws gaining traction too
- PosterGuard@ComplianceProtection = 24/7/365 compliance



Recommended Solution



Poster Guard® Compliance Protection

Poster Guard Compliance Protection is the nation's leading labor law poster service, with comprehensive solutions for federal, state, county, city, federal contractor and industry-specific posting compliance. The Poster Guard service includes a complete up-to-date poster set at time of purchase, along with 12 months of legal monitoring and automatic replacements any time a mandatory update is made to a covered posting. Employers of all sizes choose Poster Guard Compliance Protection, guaranteed by ComplyRight, to ensure 100% guaranteed posting compliance 365 days a year.

AVAILABLE EXCLUSIVELY THROUGH:

PosterTracker
from **HRdirect**

Mistake #5

Recordkeeping Issues

Not Keeping Accurate and Thorough Employee Records

- Sloppy recordkeeping can result in
 - Wasted time/overhead expense
 - Disputes with employees
 - Fines for non-compliance
- Employment laws dictate what data must be kept
 - Payroll records (hours worked, wage payments)
 - Hiring records
 - Reference check information
 - Family and Medical Leave Act
 - Immigration

EMPLOYEE RECORD RETENTION

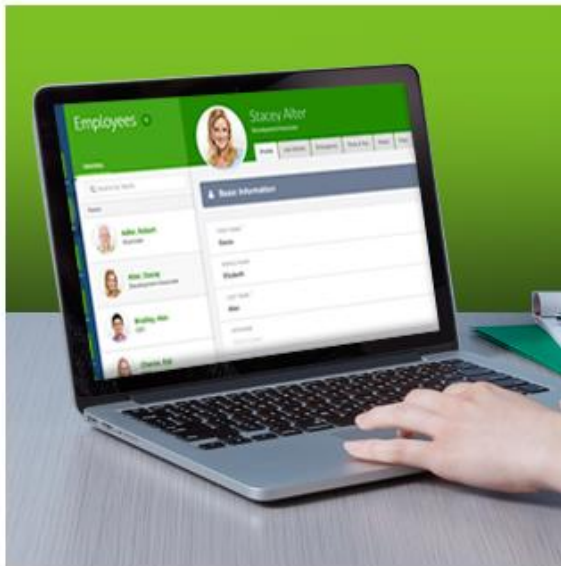
Guidelines for
Employers and
HR Managers

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Recommended Solution

EMPLOYEE RECORDS SMART APP



- FREE online app for storing essential employee data
- Keeps information organized, secure and centralized
- Eliminates the need for employee folders and filing cabinets
- Self-service feature allows employees to update their own records, removing the administrative burden from the business

TRY IT FREE:

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Q&A

Steve Strauss
&

Jaime Lizotte,
HR Solutions Manager, ComplyRight

Questions?

ask

Steve Strauss



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