

Be Careful what you Write!

How many times have you, as an employer, exchanged thoughts with management over email about an employee? For most employers, this type of communication takes place on a daily basis. Employers often do not realize, however, that if the employee who is the subject of the communication is terminated and later sues the employer, all written internal communications are “discoverable”. This means they must be shared in any legal proceedings.

The litigation process requires that parties disclose all relevant documents. While some communications such as those between a lawyer and a client are protected by solicitor client privilege and are very rarely discoverable, corporate communications, albeit of a confidential character, are not.

It is also important to note that deleting electronic communications will not typically protect the employer as the communications are capable of being retrieved by IT professionals.

Employers and those in management or human resources roles are therefore urged to exercise caution when communicating internally about employees over email, text message, or any other written form as they can have significant negative legal implications for employers.

Please contact e2r Solutions® if you have any questions about the discoverability of internal communications.