

Careless comments

You already know the topics you cannot discuss at work: personal disabilities, marital status, lifestyle, pregnancies and the like. But beyond these basics, there are other types of verbal slip-ups that can prove costly:

The bad joke. You tell a racy joke to a few co-workers. Some people laugh, others don't. But no one comes up to you afterward. Weeks go by. You almost forget about the whole incident.

According to Michael Banks, an employment lawyer at Morgan, Lewis and Bockius in Philadelphia, "civil discovery" can come back to haunt you. "Maybe you told a racist or sexist joke," he says. "Then there is racial- or sexual-harassment litigation against your company and you're asked in your deposition, 'Did you ever tell a racial joke?' You think back, and you can't say no. Note that you're not being asked, 'Did you discriminate?' That's not the issue. And because you made those comments, things start to unravel."

The alleged "friend." You figure you can be yourself around your closest colleagues, especially if you've ascended to a high-level executive position. In fact, you assume that now that you've climbed above the middle-management ranks, you can reveal more of your natural personality.

Not so fast. Banks reports a boom in lawsuits by higher-level executives. "In the old days of discrimination litigation and wrongful discharge litigation, most plaintiffs were first-line managers and below," he says. "We're now seeing this kind of litigation at all levels of the company."

Until recent years, senior executives with strategic responsibilities—the so-called inner team—would rarely turn on their company and become plaintiffs. They feared that doing so would damage their careers. Not anymore.

"The ramifications are very important," Banks warns. "Behind closed doors, you and other executives might discuss sensitive questions, such as minority representation or the existence of actual or perceived glass ceilings for women and minorities. Or you might discuss issues of noncompliance with a federal agency. Many things that you once thought were sacrosanct now can find themselves on the record. Today, the plaintiffs are the confidantes you trusted."

The well-meaning blunder. When firing a manager, don't try to ease the pain (yours and his) with a remark such as, "You don't need this aggravation. You're 62. You made money here. You should be fishing and enjoying your grandkids." Weigh each word and avoid the personal asides.