HARD HATS & HARD CALLS

Workforce Decisions When There Is No Easy Answer

Kristal Graham | Labor & Employment Attorney
Anne Marie Tavella | Construction Attorney



HARD CALL 1

THE CAMP CONFRONTATION

You receive multiple different texts from employees telling you that two employees engaged in a heated confrontation in camp. One employee alleges threats were made. Their statements conflict.



YOUR CALL

What is your first move?

- **A** Send both employees home
- **B** Terminate both employees
- **C** Separate employees and investigate
- **D** Wait until more information develops

DISCUSSION POINTS

1 Workplace violence concerns

2 Importance of immediate action

3 Temporary measures versus final decisions

4 Documentation and witness interviews

Temporary control first. Final judgment later.

1	**SEPARATE**	Different shift, crew, scope, or camp area
2	**PRESERVE**	Save texts, screenshots, video, timestamps
3	**INTERVIEW**	Question separately, ask open questions
4	**CHECK**	CBA, camp rules, subcontract, owner notice requirements
5	**DOCUMENT**	Facts, temporary steps, next review time

RECOMMENDED FIRST MOVE: C

HARD HAT PRINCIPLE 1

SECURE THE SITE BEFORE YOU SOLVE THE PROBLEM

You do not need to determine who is right immediately. You do need to create a safe environment immediately.

HARD CALL 2

THE POSITIVE DRUG TEST

A loader backed into a pickup in the laydown yard. A long-term employee was in the pickup. Nobody was hurt, but there's some property damage, and your post-accident testing policy kicks in. The employee tested positive for marijuana. He has been with you twelve years. Great record. Trains the new people. He denies being under the influence and says the positive test is from hemp oil used for muscle injuries he sustained at work.



YOUR CALL

What should happen today?

- **A** Immediate termination
- **B** Suspension pending investigation
- **C** Written warning
- **D** No discipline

DISCUSSION POINTS

1 Safety-sensitive roles and DOT requirements

2 Owner requirements and policy consistency

3 Distinguishing facts from assumptions

4 Separating removal, employment, and discipline decisions

BEFORE THE FINAL DECISION

The answer changes with the facts you verify.

ROLE

Safety-sensitive? CDL or DOT-covered?

POLICY

What does the current written policy say?

CONSISTENCY

How were comparable cases handled?

AGREEMENTS

CBA, PLA, owner contract, subcontract

CONTEXT

Accident facts, prior record, injury report

HARD HAT PRINCIPLE 2

FACTS FIRST, DECISIONS SECOND

A positive test result is a fact. It is not necessarily the entire story.

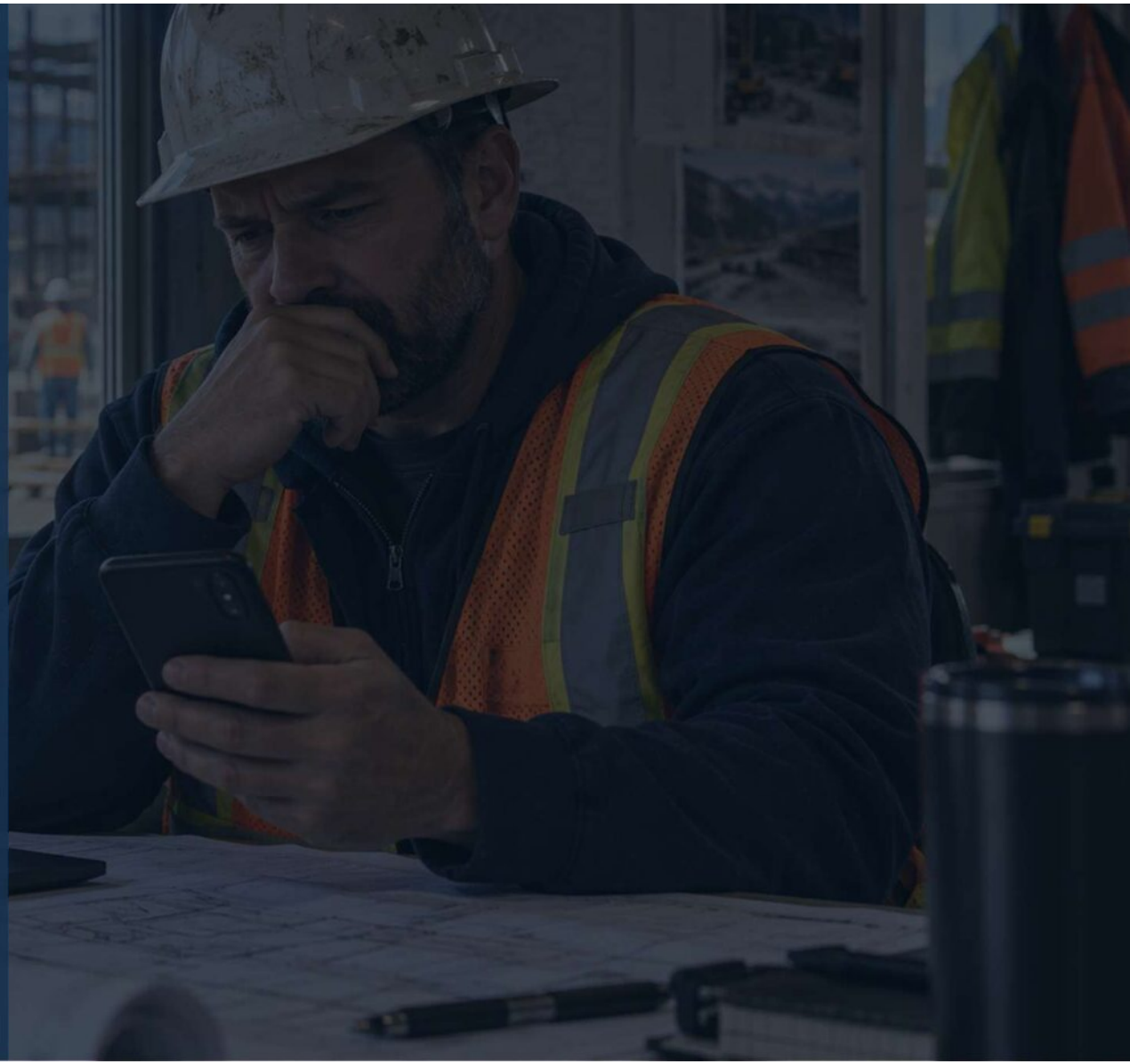
HARD CALL 3

THE SUPERVISOR'S TEXT

A superintendent receives a text message from a female employee:
"I don't really want to cause problems and please don't tell anyone, but my foreman keeps making comments about women and nobody seems to care."

The superintendent does nothing.

Three months later HR learns of the complaint when the employee files a formal complaint of discrimination after receiving a substandard performance review.



YOUR CALL

When did the Company receive notice of the complaint?

A When the employee texted the superintendent

B When HR received notice of the complaint

C When the employee filed a formal complaint

DISCUSSION POINTS

1 Informal complaints can become company notice

2 Inaction compounds the risk

3 Who owns the next step

4 Preserving the message and preventing retaliation

A 20-SECOND SUPERVISOR SCRIPT

Acknowledge. Escalate. Protect against retaliation.

"Thank you for telling me. I'm going to make sure this gets to the right people so it can be looked at. If anything else happens, or if anyone gives you a hard time for raising this, tell me or HR right away."

Do not promise secrecy. Do not investigate on the spot. Do not delete the message.

HARD HAT PRINCIPLE 3

EVERY SUPERVISOR IS AN EXTENSION OF THE COMPANY

Employees rarely complain in the perfect format. Leaders must recognize issues however they are reported.

HARD CALL 4

THE UNEXPECTED RESTRICTION

A highly effective equipment operator tells his supervisor:
“My doctor says I won't be able to travel for a while.”

The employee never mentions disability, accommodation, or leave.



YOUR CALL

What should the supervisor do first?

A. Ask detailed medical questions

B. Contact HR

C. Remove the employee indefinitely

D. Tell the employee to return when ready

DISCUSSION POINTS

1 Recognize possible accommodation requests

2 Train supervisors on how to respond

3 Involve HR in the interactive process

4 Confidentiality

THE RIGHT HANDOFF

Supervisor spots the issue. HR runs the process.

SUPERVISOR

Listen for a limitation
Keep questions narrow
Call HR promptly

HR

Clarify restrictions and duration
Explore workable options
Document the conversation

PROJECT TEAM

Check key-person clauses
Plan qualified substitution
Protect confidentiality

HARD HAT PRINCIPLE 4

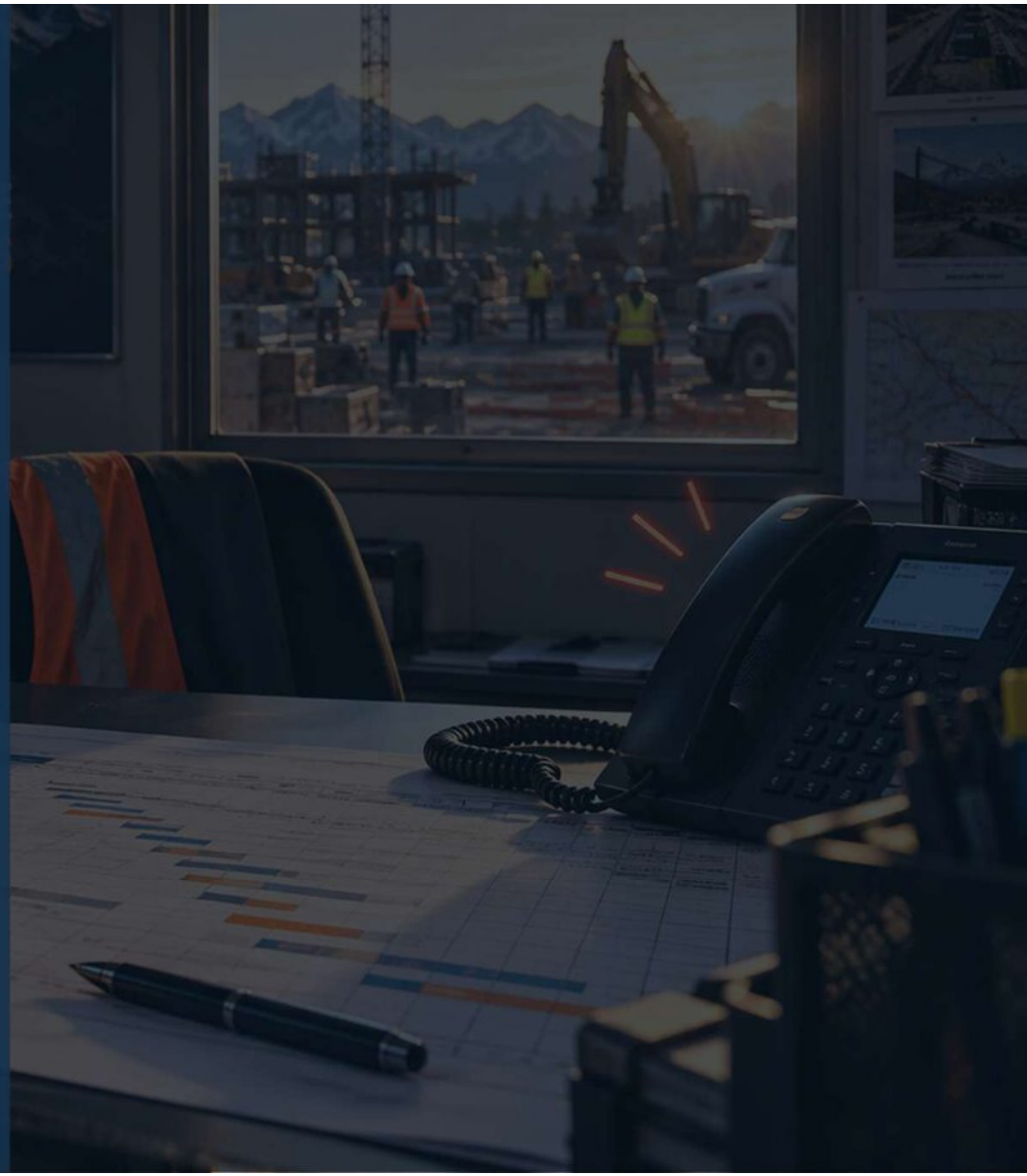
LISTEN FOR THE PROBLEM, NOT THE LEGAL WORDS

Employees usually describe limitations, not legal rights.

HARD CALL 5

IS HE REALLY SICK?

It is the middle of a critical project phase and the team is already short-staffed.
A project administrator calls his supervisor on Monday morning after a holiday weekend and says: “I’m not feeling well and need to take a sick day today.”
The employee has accrued sick leave available but you’re pretty sure he’s just hungover.



YOUR CALL

What should the supervisor do first?

A Deny the leave request

B Approve leave

C Request a doctor’s note

D Require the employee to find coverage

DISCUSSION POINTS

1 Respond consistently to leave requests

2 Managing staffing challenges without penalizing employees

3 Appropriate documentation practices

4 Avoiding comments that could suggest retaliation

FACT OR ASSUMPTION?

Use policy and objective information, not frustration.

Prior holiday-weekend absences	A pattern worth documenting and reviewing through HR	**Not automatic proof of misuse**
Fishing photos from the weekend	A fact about the weekend	**Not proof the employee was well on Monday**
Critical staffing shortage	A real project-management risk	**Not a reason to deny protected leave**
“Must be nice…” comments	Evidence that can suggest retaliation	**Use a neutral call-in response instead**

HARD HAT PRINCIPLE 5

SUSPICION IS NOT PROOF

A gut feeling may be a reason to ask questions. It is not a reason to skip the process.

THE HARD HATS & HARD CALLS FRAMEWORK

Five moves when there is no perfect answer.

1. **SLOW DOWN** — The first reaction is not always the best decision.
2. **SECURE SAFETY** — Protect people and stabilize the site.
3. **GATHER FACTS** — Check policy, agreements, and contracts.
4. **DOCUMENT OBJECTIVELY** — Record dates, words, and actions, not conclusions.
5. **ESCALATE EARLY** — Use HR, safety, and counsel before positions harden.

THREE MOVES IN THE NEXT 30 DAYS

Turn today's framework into field practice.

01

ALIGN

Make sure your policies match your contract obligations.

02

TRAIN

Make sure every foreman knows what to report and who to call.

03

REHEARSE

Run one scenario at the next safety or superintendent meeting.

QUESTIONS?



Kristal Graham
kristalgraham@dwt.com
907-257-5312



Anne Marie Tavella
annemarietavella@dwt.com
907-257-5345