The Cost of Doing Business in America Today
By Harris M. Plotkin

Lawsuits

Because we have become a litigious society, the cost of doing business in our country has continued to increase every year.

About fifteen years ago, the most popular lawsuit was wrongful termination. Wrongful termination lawsuits generally emanated from hiring the wrong person who later had to be terminated for a variety of reasons: theft, incompetence, absenteeism, insubordination, indifference to customers, etc., etc.

The problem occurred because those who did the terminating often did not do it correctly. They did not create a proper paper trail showing the problems this person had, or they did not document the efforts they made to help the person correct deficiencies and the time they gave them to do so. Most of these people probably should have been fired, but the manner in which it was done brought about the lawsuits.

One client told us during this period, that through the use of our Honesty test, we saved them more money from having fewer wrongful termination lawsuits than we saved them money from employee theft. A sad commentary on our country’s way of doing business.

After wrongful termination lawsuits, negligent hiring lawsuits became popular. Negligent hiring lawsuits occur when one of your employees verbally or physically abuses a co-worker or customer, and an attorney can prove that you did not do a prudent job of screening out that type of individual. These lawsuits on the average settled for a little over $600,000. One organization lost $6 million because one of their employees was involved in the deaths of two of their customers. As a result of these lawsuits, more and more people began doing pre-employment testing and conducting background checks.

In the years that followed those lawsuits, sexual harassment lawsuits began. These lawsuits still abound today, and will be the hot issue for a number of years to come. In an effort to eliminate the hiring of individuals who would be involved in this type of lawsuit, many companies are conducting criminal conviction background checks.
Other legal concerns that raise the cost of doing business in our country include workplace violence. Again, criminal conviction background checks can help minimize the hiring of violent people. Psychological tests are also available that can help screen out violence-prone individuals.

In the last few years, attorneys have introduced negligent referral lawsuits. These occur when an employer gives either a good referral about a former bad employee or neglects to tell the questioning prospective employer of any heinous acts the former employee committed. If that employee should repeat that same type of behavior at their new place of employment, and the former employer did not inform the new employer of the negative behavior, the former employer can be sued. These lawsuits have developed because most employers are afraid to give any kind of referrals for fear of being sued by their former employee. There are about a dozen states which hold an employer harmless of bad referrals as long as the company can back their comments with documentation. Still, people are leery of providing referrals on former employees other than “name, rank, and serial number”.

More recently, there have been over 70,000 lawsuits as a result of the Americans with Disabilities Act. The financial impact on employers because of this Act has not come close to what most thought it would. Most of the “reasonable accommodations” that employers have provided have been inexpensive and have met the intent of the law.

We have not seen the end of lawsuits. One of the major laws of physics is that “nature abhors a vacuum, and if there is a vacuum, something will rush in to take its place”. Lawyers have adopted that law, and when a vacuum in the law is found that can produce lucrative lawsuits, they will create them.

**Employee Turnover**

What other concerns and issues exist in the nineties that have raised the cost of doing business in America? Probably the biggest single issue is employee turnover. Most companies do not recognize it, do not measure the cost of turnover, and do not seriously address the issue. I’m sure if one was to go over the financial records of some of the large organizations that have disappeared over the years through bankruptcy, acquisition, or just fallen by the wayside, the cost of employee turnover would turn out to be a major cause of their demise.

**Loss of Productivity**

Commerce Clearing House and other organizations have indicated that the cost to replace an average front-line employee is between $3,000-$5,000. To replace a management employee or a salesperson, the
cost can run between $10,000 and $100,000. These costs come from recruiting, selecting, training, and getting a new employee up to speed. In a recent turnover cost study we conducted with one of our clients, we found out that their turnover costs were over $1,000,000 due to the factors mentioned above. However, they lost over another million dollars in sales (loss of productivity), because they couldn’t fulfill customer orders due to a lack of trained workers. This factor is the real money loser in employee turnover—not the cost of recruiting and selecting applicants, or the training programs you put new hires through—but the fact that it takes new employees several months to be as productive as trained, experience employees.

**Loss of Sales**

Consider a sales person who brings in $50,000 a month for his company, but is hired away by another organization, or quits because he is treated badly, or leaves for other reasons. It usually takes between three and nine months to replace someone of this quality. If we say it will take six months to replace this person, the loss in sales alone would be $300,000. Therefore, employee turnover not only impacts overhead by increasing its cost, but also impacts sales by reducing sales.

Hiring the right person for the right job would minimize employee turnover, loss of productivity, and loss of sales. This requires identifying not only whether individuals have the qualities necessary to do the job, but more importantly, whether their attitude fits the values, personality, and culture of the organization. Written attitude and aptitude tests are the best selection tools to deal with these issues.

**Employee Theft**

The cost of employee theft has been reported by several organizations to exceed $400,000,000. Also, 40% of all business failures have been due to employee theft. The San Diego Union-Tribune reported in the June 29, 1998 issue …

"Entry-level restaurant and fast-food workers have admitted stealing an average of $114 annually in cash and merchandise from their employers, but the wave of theft doesn't stop there. A survey by the National Food Service Security Council and the Workforce Development Group Computer Systems also reveals that restaurant managers confessed to having stolen an average of $80 themselves."

Employers that have changed their hiring procedures usually have added credit checks and criminal conviction checks in an effort to minimize employee theft—a poor choice. The only proven deterrent to minimize employee theft is validated honesty tests. Credit checks are little value as a deterrent to
employee theft. Criminal checks are useful to minimize sexual harassment and workplace violence lawsuits.

**Conclusion**

Workplace violence and sexual harassment cost business $4,000,000 per year. Employees who are constantly tardy is a major problem, and cost business $3.5 billion dollars a year.

However, if you look at the single biggest cost of doing business in America today from the issues I’ve listed above, it’s still employee turnover. It’s amazing how little attention corporate management pays to it. The major reason for employee turnover is that the wrong person was hired for the job, and no amount of training or treatment by management will make that employee fit that job. Sooner or later, they will quit or be terminated.

Many organizations are still uncertain about the legality of tests, and probably have received bad advice from their legal counsel regarding testing. The only state where honesty tests are not legal to use is Massachusetts. The only state where honesty tests cannot be used as the sole means of rejecting an applicant is Rhode Island. In all other states, testing is legal. *Pre-employment testing is legal* and has been for many years. *Background checks are also legal* to conduct, although recent government regulations provide new rights to applicants or employees who are not selected or terminated due to adverse background reports.

For years we’ve advocated a philosophy that building a winning and profitable team takes three steps:

1) **Employee selection** This means hiring the right person with the right aptitude and the right attitude for the job, and not being overly concerned with skills and experience. It’s very difficult to change a person’s attitude, and impossible to change a person’s aptitude. However, if they have the right attitude and aptitude, they can be taught the skill knowledge they need to do the job.

2) **Training in both skills and attitude**.

3) **Treatment by Management** that is fair, but also holds employees accountable for their performance.

Of those three steps, by far the most important one is *selection*. No one is going to be able to train a “square peg to fit into a round hole”, and no one can “turn a sow’s ear into a silk purse.” Many of the aforementioned issues resulting in financial losses could have been minimized by organizations investing more money in the *selection* process, rather than in the training process.
About the author... Harris (Hank) Plotkin is the author of the recently published book, Building A Winning Team, and creator of the ABOVE and BEYOND customer service training program designed exclusively for the golf industry. Hank is a regular column writer for The Boardroom, Golf Retailer, and NGCOA’s Golf Business. He is the founder of The Plotkin Group, a 30-year-old management consulting and training firm which uses the latest scientific employee testing and training programs to help organizations select and train employees. They have several hundred clients in the golf industry, including most golf management companies, numerous resorts, private country clubs, and municipal clubs. Their ABOVE and BEYOND customer service training program is approved by the PGA of America and the CMAA for continuing education credits. They travel around the country training PGA sections and CMAA chapters in that program, as well as their BUILDING A WINNING TEAM workshop. For more information about employment tests, call (800) 877-5685.