

Understanding Leverage in Labor Negotiations Tips from SESCO's Labor Relations Team

SESCO Management Consultants has been engaged in labor relations services since 1945, the oldest such consulting firm in America today. SESCO's history is legendary and as such has produced some of the country's most well-known and successful labor relations consultants.

With the recent success of unions, employers are now facing unionization and subsequent labor negotiations. With margins as tight as they are, employers must prevent unionization at all costs. Being unionized in today's marketplace is a cost that employers cannot absorb. Further, should an employer lose an election, it is not over! Utilizing **experienced** and **tough** negotiators is critical. Just because one has a law license or hangs a shingle of employee and HR consulting, does not mean that they have the skills and expertise to assist employers through this very complicated, challenging and costly time.

We will be presenting in future newsletters SESCO tips and recommendations to prevent and "win" elections when challenged by an outside third party.

The first in this series includes understanding leverage in negotiations. Leverage in negotiations is a power one party holds to influence the other side's decisions and outcomes. It is a crucial factor that can determine the success of any negotiation process.

Leverage can be categorized into three (3) main types:

- **Positive Leverage:** This involves the ability to provide benefits that the other party desires. It is based on satisfying the needs of the opposing side, which can enhance the negotiating position.
- **Negative Leverage:** This type relies on the ability to impose cost or threats. It plays on loss aversion, where potential losses are perceived as more significant than equivalent gains. This is the leverage you as the employer/manager wants.
- **Normative Leverage:** This is based on social norms and expectations, influencing the negotiation through established standard practices.

Leverage is absolutely essential in every case:

- It can help over weak negotiating skills. A party with strong leverage may achieve favorable outcomes even if they lack expertise, which we as a professional firm see and experience due to the lack of experience of most.
- The party with the most to lose from a "no deal" scenario typically has less leverage. Conversely, the

one willing to walk away has more power in negotiations. Time must always be on the side of the employer/manager and you must have the wherewithal to simply say "no" and walk away.

To effectively use leverage, consider the following strategies:

1. **Understand the other party:** Summarize their position to demonstrate understanding and to build trust.
2. **Identify alternatives:** Develop credible alternatives (often referred to as BATNA - Best Alternative to a Negotiated Agreement) to strengthen your negotiating position.
3. **Create value:** Focus on systematic value creation by improving options outside the current negotiation which can enhance your leverage.

By recognizing and effectively utilizing leverage, negotiators can significantly improve their chances of achieving favorable outcomes.

Consider the brief, very impressive resumes of SESCO's two (2) lead negotiators: Paul Sommerville - 52 years of labor relations consulting including negotiations and Jim Allen - 20 years.

Paul Sommerville

Paul Sommerville has been SESCO's senior labor relations consultant for 52 years. Over these years Paul has been engaged in over 700 business organizations including many Fortune 500 com-

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LEVERAGE

panies on various proactive business and labor relations strategies. Engagements include organizational development, management strategies for mergers and acquisitions, site selection and due diligence, negotiation strategies, concession bargaining and contract negotiations, successor bargaining strategies and strategic planning.

Of those 700 clients, a brief engagement list includes American Airlines, Inland Steel, Archer-Daniels Midland, Pepsi-Cola USA, Coca-Cola USA, Toys-R-Us, Chrysler Corporation, AK Steel, and Target.

Paul's labor relations experience includes over 200 certifications (RC) and D-Certifications (RD) elections under the NLRB and RLA with a 95% plus win ratio.

Paul is extremely active outside of his consulting to include President, Savannah Area Mensa, Bestry Member – Saint Helenas Episcopal Church, President – Duke Alumni Club, and Beaufort, South Carolina County Commissioner (Vice-Chair Land Management Committee).

Paul's education includes a BA in Business Administration from Duke University and a Law Degree from John Marshall Law School.

Jim Allen

Jim Allen is SESCO's VP of labor Relations. He is a fervent advocate for employer rights who strongly believes the best employers are those who understand that their highest priority must be their most precious resource, their employees.

Jim is a graduate of the Salmon P. Chase College of Law. Since receiving his Certificate in Labor & Employment Law, he has aggressively fought for the rights of employers and their employees against unions and antagonistic union tactics for over 20 years. Jim has a successful track record, having won numerous NLRB-conducted union elections and worked with hundreds of clients to achieve employer-positive resolutions in Unfair Labor Practice proceedings.

Jim's experience and knowledge extend to union grievance and arbitration actions, as well as advocating for employers in Department of Labor, OSHA, and other Federal agency compliance matters.

Top 10 Mistakes Managers Make to Create Employment Liability

In working with and advising owners, managers and HR professionals, we have found the top 10 mistakes managers make that can lead to employment liability include failing to document performance issues, treating employees inconsistently, not training supervisors adequately, ignoring employee complaints, and misclassifying employees. These errors can expose organizations to lawsuits and compliance penalties.

Common Employment Law Mistakes by Managers

1. Failing to Document Employee Performance

- Proper documentation is essential for justifying employment decisions.
- Inadequate records can weaken a manager's position in disputes.

2. Not Training Supervisors Adequately

- Supervisors must be educated

on handling employee issues and complaints.

- Lack of training can lead to mishandling of complaints and increased liability.

3. Ignoring Employee Complaints

- All complaints, especially regarding harassment or discrimination, must be taken seriously.
- Ignoring complaints can result in lawsuits and damage to the company's reputation.

4. Misclassifying Employees

- Misclassifying workers as independent contractors instead of employees can lead to legal repercussions.
- It's important to understand the legal definitions and requirements for classification.

5. Not Providing Legally Compliant Meal and Rest Breaks

- Employers must adhere to laws regarding meal and rest breaks.

- Failure to provide these can result in penalties and lawsuits.

6. Incomplete or Outdated Employee Handbooks

- Handbooks should be regularly updated to reflect current laws and policies.
- An outdated handbook can leave employers vulnerable to legal challenges.

7. Terminating Employees Without Proper Documentation

- Documentation of performance issues is critical when terminating an employee.
- Lack of records can lead to wrongful termination claims.

8. Failing to Address Harassment and Discrimination

- Employers must investigate all allegations of harassment or discrimination thoroughly.

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EMPLOYMENT LIABILITY

- Mishandling these issues can lead to significant legal consequences.

9. Not Reimbursing Business Expenses

- Employers are required to reimburse employees for necessary business expenses.
- Failure to do so can violate state laws and lead to claims.

10. Not Consulting an Employment Law Attorney

- Many employers make decisions based on outdated information.
- Regular consultation with legal experts can help ensure compliance and reduce risks.

What are the financial consequences of employment liability for organizations?

Financial consequences of employment liability for organizations can include lawsuits, regulatory penalties, and reputational damage, which may lead to significant financial losses. Additionally, errors in managing employee benefits can expose employers to claims that result in further financial harm.

Most importantly, managers, considered agents by law, create significant liability for owners and stockholders of the organization. It is critical as such that all managers understand the basic do's and

don'ts in ensuring compliance with basic employment regulations. Unfortunately, most of the time, when it reaches the owner's or human resource manager's desk, it is too late.

SESCO specializes in developing and training effective leaders and managers to include understanding and complying with complex federal and state employment regulations. Contact SESO to schedule a brief one (1) to two (2) hour on or offsite session for your managers.

SESCO Client Feedback

"Thank you very much for this. I greatly appreciate all of you at SESO. You make my work life much more manageable." ~ **Miranda Gooch, Director of Human Resources - HOPE Family Health - Westmoreland, TN**

"Good afternoon, Tonya. The Supervisor Core Competencies: Back to Basics training today was a hit with our supervisory staff that participated. The VP of Operations participated and she was extremely pleased. So pleased that she would like to know if SESO can provide another of the same training for all of our managers?" ~ **Deb Maurer, Corporate Manager, Human Resources - Insights Training Group, LLC - Marion, VA**

(Feedback concerning background checks) *"Tonya, WOW!!!! Impressive! That was quick! I'll be back in touch soon."* ~ **Alison Parsell, Chief Operating Officer - Parsell Funeral Homes - Lewes, DE**

(Feedback concerning employee handbooks) *"Michelle, thank you, skimmed the first few pages, and what I see, I am so happy. I really thought I was going to have to retype all this. You guys are amazing."* ~ **Amanda Davis, Executive Director - Open Door Service Center, Inc. - Sedalia, MO**

"SESCO is the best, not sure what we would do without them. These situations are getting harder and harder to deal with and they always come through and give us the guidance we need." ~ **Hunt Demarest, CPA/ABV - Paar, Melis & Associates - Mount Airy, MD**

"Bill, thank you so much for your kind letter of congratulations. It has been a joy working with you throughout my 30 years at ICM. Because of people like you, I always felt like SESO had our back and looked out for the well-being of ICM. I would recommend your firm to any who may be looking for the type of service SESO provides." ~ **Janice H. Stringer, Chief Operating Officer - ICM - Newport News, VA**

Special Thanks to New SESO Clients!

KAVN Health
Columbia, MD

Titan Mechanical
Manassas Park, VA

LifeSpan Network
Columbia, MD

Johnson City Bedding
Johnson City, TN

Special T Manufacturing
Meadowview, VA

Natural Resources Transport, LLC
Eufaula, AL

Petersburg Redevelopment and
Housing Authority
Petersburg, VA

Faith Healthcare, Inc.
Somerset, KY

Dulles Motorcars
Leesburg, VA

Chamberlin Automotive
Des Moines, IA

Japan Auto Repair, Inc.
San Rafael, CA

A&J Enterprises
Tipton, IA



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RETURN SERVICE REQUESTED

Featured SESCO Product

Background Checks and Drug Testing Services

Most clients don't know that SESCO has partnered with SafeGuard to provide the best of background checks and drug testing services on the market.

Package #1 - Hourly/Entry Level - \$75.00

- Social Security Number Trace with Past Address History for 7 years
- County Felony/Misdemeanor Search
- Federal Criminal District Search
- Nationwide Criminal Database Records
 1. National Sex Offender Records
 2. OFAC SDN/Office of Foreign Assets Control, Specially Designated National/Patriot Act
 3. Terrorist Watch List

Package # 2 - Hourly/Entry Level Who Operate Company Vehicles - \$95.00.

- This includes everything in package #1 and provides a Driving History Record given a requirement to drive personal or company vehicles.

Package # 3 - Professional Management - \$105.00

- This package is the combination of packages 1 and 2 with the addition of a federal bankruptcy check.

Drug Test Screenings are an additional \$85.00 each, this is a separate release.

We can also custom tailor a package specifically for your business needs or perform a la carte inquiries such as credit check (\$40.00), Motor Vehicles Records check (\$40.00), (clerk fees and DMV feeds do not apply to these prices) and many others.