

THE USE AND POTENTIAL CONSEQUENCES OF EMOJIS IN THE WORKPLACE

In this current day and age, technology has advanced whereby the use of applications and social media concerning communication has become the norm. The use of emoji's has become more prevalent in how we communicate with one another, especially in cases where a speedy response is needed.

Emoji's can be used to either provide a positive or negative response to the person whom is being messaged. However, each emoji should be interpreted within the context that it has been sent as emoji's can have multiple meanings. Typically a thumbs up or a smiley face can indicate a positive response, however, there may be plenty of other emoji's that could have the same effect depending on the person.

Although emoji's may be seen as harmless, it should be noted that there can be serious implications associated with the use of certain emoji's. In the United States of America the use of emoji's in the workplace has led to civil claims such as defamation whereby an employee had made comments with the use of an emoji sticking out its tongue which led the court to find that the employee's comments were intended to ridicule and criticise.

In another matter damages had been awarded to a landlord in Israel as a potential client had sent a message accompanied by celebratory emoji's which misrepresented the clients interest in the property of the landlord.

Where emoji's are concerned in South African law

such matters have not yet been dealt with before our courts. It is however important to note that in terms the Electronic Communications and Transactions Act (ECTA) Emoticons or not specifically classified but do fall within the general definition of a data message.

In terms of the ECTA data messages are enforceable under South African law, therefore, emoji's could be seen as admissible evidence before a court if a person were to testify to such communication.

The issue with emoji's as previously stated concerns the interpretation of an emoji and could be seen by the court as ambiguous and not a reliable source of evidence, however, same could be said about text messages, letters and emails.

Therefore, employers and employees should be careful when making use of emoji's to communicate in and out of the workplace as such communication could be misinterpreted and prove to be detrimental.

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