

***Hiring to Firing Podcast — Dressing for Success: Workplace Fashion Inspired by Julia Roberts' Erin Brockovich***

**Hosts: Tracey Diamond and Evan Gibbs**

**Guest: Katie Stark**

**Tracey Diamond:**

Welcome to *Hiring to Firing*, the podcast. I'm Tracey Diamond, laborer and employment attorney at Troutman Pepper, and I'm here with my co-host extraordinaire, Evan Gibbs. Together we tackle all employment and HR issues, from hiring to firing. Today our special guest is Katie Stark. Katie is Senior Director, Commercial Counsel for Collegium Pharmaceutical. Thanks so much for joining us, Katie.

**Katie Stark:**

You're welcome. Happy to be here.

**Tracey Diamond:**

Why don't you tell us a little bit about Collegium, and about your role with the company?

**Katie Stark:**

Collegium is a specialty pharmaceutical company committed to improving the lives of people living with serious medical conditions. I've been with Collegium now for about two years, coming from a firm where I primarily focused on litigation and investigations. What I really like about my role at Collegium is that I get to see and do a little bit of everything in my role as commercial counsel. For example, I help to negotiate contracts. I'm part of the team responsible for reviewing the promotional materials for our products, and I also frequently partner with the human resources and compliance teams to conduct trainings, handle employment matters and internal investigations, things of that nature. While I report directly to our general counsel and I'm involved in other strictly legal matters, I often find myself collaborating on projects with all parts of the business, which really enables me to become a better strategic advisor to our business.

**Tracey Diamond:**

That's one of the really nice things about in-house, is you get to really work on the business side in addition to working with all the outside litigators, and other types of lawyers, I would think.

**Katie Stark:**

Yes, I surprisingly enjoy working with non-lawyers. It's fun.

**Tracey Diamond:**

I can't imagine why. Tell us a little bit about the employment structure at Collegium, in terms of number of employees, approximately, and where you're spread out.

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**Katie Stark:**

Sure. We have about 200 employees. The biggest portion of our employee base is in the field. We have sales representatives in all different parts of the country, in different territories, and we have probably about 40 to 50 people located here at the home office.

**Tracey Diamond:**

We're going to do something new today. We thought we'd kick off our topic, which is dress codes in the workplace, with a fun fact. Evan, I'm going to start with you. Why don't you tell us what was the weirdest fashion trend you ever embraced, or the most embarrassing fashion trend that you used to embrace?

**Evan Gibbs:**

Oh my gosh, it is embarrassing. When I was in about 7th grade, I don't know if y'all remember wide-leg jeans? There was a brand called JNCO. Some of my friends and I, we were entrenched in that culture; skateboards, the BMX bikes, and the wide-leg pants, and all that stuff. It's really funny, because number one, the pictures I've seen from back then are, oh man, they're so embarrassing. But I recently was driving, here in Atlanta downtown, and I saw a group of three or four kids, and they were dressed exactly like we used to dress back in the day. I think, I don't know if you want to call it a style, it was one like a counterculture, I guess, but it has apparently cycled back through.

**Tracey Diamond:**

Never get rid of those wide-leg jeans. You never know when they're going to come back.

**Evan Gibbs:**

I guess not. Thank God I did get rid of those things, though.

**Tracey Diamond:**

I can't see your whole shirt right now, Evan, but I saw the word pickle on it. You're the third person in the last week that I've seen wearing something having to do with pickles on their shirt.

**Evan Gibbs:**

Really?

**Tracey Diamond:**

I saw someone with a sweatshirt that had all the different kinds of jars of pickles on it the other day. I think pickles are the fashion trend of Fall of 2023.

**Evan Gibbs:**

Apparently so. Yeah, mine says, "Pickle Pickle." It's actually a Chick-fil-A shirt. My wife works at Chick-fil-A. It's "Pickle Pickle" because on every Chick-fil-A sandwich, there's supposed to be two pickles, not three, not four. You can ask for extra, but the standard sandwich has two, and they're always supposed to be dating, not mating, so two pickles, and they're not touching, on the sandwich.

**Tracey Diamond:**

Oh, no.

**Evan Gibbs:**

That's right.

**Tracey Diamond:**

That's another fun fact.

**Evan Gibbs:**

That's right. Two for one today.

**Tracey Diamond:**

How about you, Katie? What's your embarrassing fashion trend?

**Katie Stark:**

I know that our listeners won't be able to see me, but I've been smiling really hard because, I kid you not, that was mine too.

**Evan Gibbs:**

Oh, my gosh.

**Katie Stark:**

The wide-leg jeans, my friends and I, we all had them, and they were so long, too, that they were torn at the end. They were raggedy.

**Evan Gibbs:**

Yes.

**Katie Stark:**

We also accessorized. Maybe, Evan, you didn't have the necklace that had the soda can tabs. I don't really know why we were collecting them, but we strung them on a necklace, and that was our, I don't know, grungy, cool, teenage phase.

**Evan Gibbs:**

Yup.

**Katie Stark:**

But I really cringe when I see those photos of myself from the past.

**Tracey Diamond:**

I'm sure you were looking mighty cool. Well, in terms of workplace clothing, I know one person in particular, who for certain, brought the concept of work clothes to a new level, and that is Erin Brockovich. Erin Brockovich is a paralegal, consumer advocate, and environmental activist, who was behind a famous case against a well-known utility company, involving groundwater contamination in Hinkley, California, back in 1993. Most of us know her because she was portrayed by Julia Roberts in the movie Erin Brockovich, which premiered in 2000, and carried Ms. Roberts on to receive an Academy Award for best actress.

While this movie, and Ms. Brockovich's extensive portfolio as a whistleblower, could be the subject of numerous workplace topics, including a topic of whistleblowing, and maybe we will tackle that in a future episode, we thought it would be fun to use the movie today to talk about dress codes in the workplace. For those of you who have not seen the movie, and I highly recommend that you do, Ms. Brockovich is portrayed as wearing very tight-fitting, low-cut shirts and short skirts in the office and in client meetings. At one point, her boss, attorney Ed Masry, has a conversation with her about it, and let's listen to that clip.

**Ed Masry:**

You're a girl.

**Erin Brockovich:**

Excuse me?

**Ed Masry:**

Why aren't you out to lunch with the girls? You're a girl.

**Erin Brockovich:**

I guess I'm not the right kind.

**Ed Masry:**

Look, now, you may want, now that you're working here, you may want to rethink your wardrobe a little.

**Erin Brockovich:**

Why is that?

**Ed Masry:**

Well, I think some of the girls are a little uncomfortable because of what you wear.

**Erin Brockovich:**

Is that so? Well, it just so happens, I think I look nice, and as long as I have one, instead of two, I'll wear what I like, if that's all right with you. You might want to rethink those ties.

**Tracey Diamond:**

Evan and Katie, is Erin right that she should be able to wear whatever she pleases?

**Evan Gibbs:**

Well, I think it depends.

**Tracey Diamond:**

Oh, the lawyer's answer, "It depends." Depends on what?

**Evan Gibbs:**

I think that first thing is, if we're talking about in the workplace, I think the first stop is always the policy. What does the policy say? Is there a policy? Some folks, especially over the course of the pandemic, have relaxed the policies, or done away with them, but I think that's the first stop.

**Katie Stark:**

Yeah, I definitely would agree with Evan. The first thing I would want to do, too, is understand the work culture in addition to the policy. It's clear from the movie and the clip, Erin does a really good job at her job. She's very intelligent, and I don't think it was ever an obstacle to her performing well, but in terms of whether she should be able to wear whatever she wants to the business, I think it's really the tone that the company sets in terms of what's appropriate.

**Evan Gibbs:**

Yeah, some situations, it could self-limit somebody's success or ability to rise in the organization. It may be unfortunate, but the reality is people make a lot of assumptions based on appearances, and a big part of that is, "Are you well groomed? Are you appropriately

dressed?" You can be the all-star on the team, but if you're showing up to work in slides and pajama pants, they're just not going to take you as seriously as somebody doing equally well, but also presenting themselves in a professional and adult way, I think.

**Tracey Diamond:**

It's interesting, because on the one hand, watching Erin Brockovich, as portrayed by Julia Roberts, in the field, relating and trying to pull together more plaintiffs for the class action, it seemed to me that the way she was dressing was helping her to relate to those more of the blue-collar workers that were out in these homes. On the other hand, I think it could be really an obstacle to her when she was relating to another law firm that they brought in to help with the case, and I don't recall whether she actually went to court in the movie, but if she wore those kind of clothing in court, that could really be a problem.

Let me start with this. When Erin saw the movie, according to director Steven Soderbergh, she said that the only thing that was inaccurate is that the skirts weren't short enough. In her mind, she saw clothing as this feminine statement, but I'm wondering whether there are concerns about sex harassment if an employee comes to work wearing clothing that's tight-fitting, or low cut. Does a woman bear any responsibility for what might happen if they come to work wearing those kinds of clothes? What do you think?

**Katie Stark:**

I think that's a tough one, because there's this unconscious bias about sexualizing a woman based on what she's wearing. Because in the alternative, if a male coworker showed up with shorts that might be a little bit above the knee, I don't think we would worry about him being sexually harassed. We don't want to treat employees differently, but I think that if someone came to work wearing something provocative or inappropriate... I don't know, that's really a challenging one. I don't know what your thoughts are.

**Evan Gibbs:**

Oh, I don't know if I'm going to touch that one.

**Tracey Diamond:**

I'm always putting him in this position.

**Evan Gibbs:**

I'm a white dude in 2023. I don't know if I should say anything on this topic. I will just say I will talk more about industry than company-specific issues. I could talk about guys addressing like that at work. I'll say this on the record, for the recording. My candid opinion is that men's shorts have gotten entirely too short for my taste, and sometimes some of the shorts I see guys wearing, I'm like, "Man, I hope you would never show up to play golf with a client in those shorts," because I think it's, candidly, it's borderline inappropriate to me.

I think that, like we were talking about earlier, it can be very situation specific, and her being able to relate to clients dressing a certain way, blue collar folks, I think that is something I can

definitely relate to, and speak on. I'll, routinely, I have to go to client sites, and meet with clients, or do a site inspection, or something like that. The most recent one, I went to a manufacturing facility, and I wore work boots, jeans, flannel shirt, and a hat. It's not something I would wear to the Troutman office, but it was entirely appropriate for what I was doing that day. It would've been really weird, and out of place, if I'd have shown up in a suit. I think it's all very situation specific. There's got to be some judgment involved.

**Tracey Diamond:**

I do the same thing. If I'm going to give a presentation at a manufacturing facility, I'm not going to walk in there in my suit. I think that'll just make it really hard to relate to my audience. But if I'm going to court, I'm definitely going to wear a suit. I do put some thought into what's professional for that particular place that I'm going to that day. From a sex harassment point of view, I think we should make it clear, nothing that a woman wears to work ever gives a green light for-

**Evan Gibbs:**

Exactly.

**Tracey Diamond:**

... a woman or a man to sexually harass that person who wore the inappropriate work attire. I think HR has the job of having to handle professionalism in the workplace in terms of what people wear to work, separately from professionalism in the workplace, and people doing the right thing in terms of not making inappropriate comments, or worse, physical touching, or other types of behavior that could rise to the level of sex harassment.

**Evan Gibbs:**

One issue that I've heard come up a lot, of listeners may be encountering, is during the pandemic, we had a relaxing of a lot of dress codes, especially folks working from home. If you're off-camera, you can really wear whatever you want. But with folks returning to the office more and more, I've heard several folks, at different companies, talk about people are really pushing back on what used to be the standard dress code. Some companies are pushing right back, and saying, "No, you can't wear sneakers to the office," for example. You can't wear, for example, ladies can't wear yoga pants, guys can't wear ripped jeans, stuff like that.

**Tracey Diamond:**

I would think that companies are so happy just to have people back in the office. This is the next level of getting people to dress properly.

**Evan Gibbs:**

Yeah.

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**Tracey Diamond:**

But I think you bring up a good point, Evan, about the shifting times, and what is considered appropriate attire for the workplace 30 years ago is not necessarily what's required, or needed, or expected now. I was just watching *Lessons in Chemistry*, the series on Apple TV that's based on this book, that everybody had been talking about over the past year. There's a scene in that, where the protagonist is wearing pants. She's a woman, and she's in 1950s, and she's on TV.

She comes out from behind a counter, and she's wearing pants, and the whole audience gasps because she has pants on. Then she's talking to her neighbor afterwards, about how she feels like she's really making a difference, because she got away with wearing pants on TV that day. It's just interesting. I remember, this is showing my age, but I remember the days when going to court in a pants suit was not considered acceptable.

**Katie Stark:**

Wow, that's interesting.

**Evan Gibbs:**

Yeah.

**Katie Stark:**

I also found it fascinating, when I was in law school, and we were getting the guidance department, or a professional development team, preparing us for interviews with big firms. They told us, "If you're a female, make sure you wear nylons." I remember thinking to myself, "Oh, my gosh, we're still talking about nylons?" Another little anecdotal story that you just reminded me of, Tracey, is when I was a newer associate at a big firm, and I was in a big conference room that had windows, with several partners, another younger female associate walked by, and she was wearing hot pink high heels.

The female partners that were at the conference room looked at each other and shook their heads, which was just so interesting to me. Sometimes I think those small things, you don't realize are perceived as being different, or out of the norm, are being picked up on, and you can be judged, and maybe thought of as less professional. When in reality, I think the shoes are fine, I actually liked them. It's just different ways of thinking about what the work environment or culture should be. In this case, a law firm, which is a little bit more conservative, I think.

**Tracey Diamond:**

And what it should be in that particular point in time, because to your nylons point, that was requirement back in the day, but I'm not really sure anymore, these days, what's expected or not expected, as far as nylons go. If anything, I think you look maybe more of an older generation if you're wearing them. You have to keep on top of the shifting workplace norms too.



**Evan Gibbs:**

Yeah, I got a similar anecdote. For the longest time, I continued to wear ties. I would wear suit pants, button up shirt with a tie, and I continued doing that for a really long time. In 2017, or so, 2017, 2018, I was actually with my mentor at this firm. I won't name him. He knows I tell the story all the time. We were going to a client lunch one time, and I was wearing what I typically wear, which I thought was appropriate for a client lunch. The slacks, shirt, tie.

We get to the restaurant, and we're about to get out of his car, and he says, "All right, you got to leave that tie in the car." I was really just surprised. There was no lead up to this. Was you got to leave that tie in the car, and I was like, "What do you mean I got to leave the tie in the car?" And he said, "Well, you look like a copy boy, and so you got to take the tie off. Nobody wears ties anymore. You got to leave the tie in the car." From that day on, I stopped wearing the tie, and I guess I got current with the times, but yeah-

**Katie Stark:**

Bow ties for you, Evan.

**Evan Gibbs:**

Yeah, the dress code has definitely evolved, just in the last several years.

**Katie Stark:**

It is, and I think that going back to what we were discussing earlier, it's all about your audience too, and who you're interacting with. One thing that I found in-house, if I have an interview, or I'm talking to someone I haven't met before, early on, I thought, "Okay, well I should wear my suit coat, because I'm a lawyer for the company, and I want them to know that." But I feel like sometimes it's very off-putting.

If the lawyer's there, they might think that it's more of a serious situation than it's not. I'm just there to gather information, or hear about how something is working, or what's not working. I think sometimes the traditional lawyer suit and tie, or whatnot, that can be very off-putting. I think what Erin Brockovich worked in her favor, in going and getting all of those plaintiffs to talk about, was in the clothes that I think that they could relate to, that she looked like a daughter, sister, friend, versus being associated for a law firm.

**Tracey Diamond:**

At the end of the day, you don't really want people to notice what you're wearing in this context. You want them to listen to what you have to say. I actually tell my daughter this all the time, in terms of the college life, of what you wear on the weekends. Just keep that in mind that those same classmates are going to be in the classroom with you on Monday, and you want to be taken seriously during the week. From a perspective, even, of off-duty attire, I guess we could analogize that too. If you're going to be in a social situation with people that you work with, you want to keep that in mind as well.

I want to turn to the HR perspective, though. Somebody comes to work, you're head of HR, and that person's wearing really provocative clothing, or something that's just not professional, or inappropriate for the workplace. How do you handle that kind of conversation?

**Evan Gibbs:**

I'll tell you a really funny story, directly on this point. A relative of mine was telling me over Thanksgiving, we hosted Thanksgiving, and she was telling me that she manages a huge team. She's got managers under her, but I guess her total team is like 150 people that she manages. She was telling me that she had to have a conversation with this particular employee, because I can't remember if it was two or three separate instances, they would have these huge team calls. There'd be like 50 or 60 people on the call. I guess she didn't realize that her camera was on, or she thought that it would be buried in the frames of the Zoom meeting and no one would see it. But she — apparently, we're having this meeting and she got up to go do something, didn't have pants on, a couple of different times.

**Tracey Diamond:**

Oh, my gosh.

**Evan Gibbs:**

It was just somebody that worked exclusively from home. This relative of mine had to have a one-on-one meeting, and say, "Look, you've got to wear pants when you're having a call, whether or not you think you're going to stand up."

**Tracey Diamond:**

I'm sure your relative was thinking, "I never thought I would ever have to have this kind of conversation. Words are coming out of my mouth, I never thought I'd have to say them." Yeah.

**Evan Gibbs:**

Yeah. I think that qualifies as provocative clothing, maybe unintentionally. Well, I don't know if it was provocative or not, but it was something. But yeah, I think that's the first thing, is you've got to have just a sit down. It can be a sensitive topic, I think, so maybe you have a soft approach.

**Katie Stark:**

I think there's a spectrum too, of behaviors or outfits. In that case, Tracey, to your point, you should know wearing pants is preferred and appropriate, versus if someone comes in one day with a skirt that might be perceived as too short, or a lower cut top. That's a little bit, I think, more challenging, but I think it's a delicate conversation that HR should have. But before going into that conversation, being mindful of the culture or the policy, "Did we set the expectations? Is this employee doing this consistently, or was this just a one-off day?"

Maybe I have too soft of an approach on that, but I think embracing differences, and encouraging expression, can be good in the workplace. Those are two of our core values at

Collegium, but there's a line that would, of course, need to be drawn if someone is dressing in a manner that's inconsistent with those core values, or distracting to others.

**Evan Gibbs:**

And also making sure that you're treating folks consistently across the organization.

**Katie Stark:**

Yeah.

**Evan Gibbs:**

Which, in larger organizations... If you've got a smaller company, it's not that big of a deal, not hard to manage, but if you're in a really big organization, you've got hundreds of employees in one or more locations, that can be a real logistical problem, making sure that everybody's aligned on that. I think that's probably a good first step, before you even maybe have a conversation with folks, is if you're going to larger HR department, talk to your counterparts and confirm that we're all aligned to what's appropriate, and what's not, and that everybody's going to be treated the same way.

**Tracey Diamond:**

Both of you have mentioned that point, and I think it's a really good one, that it's really important to not be singling people out, particularly people of different protected categories, whether it's gender, or race, or some other protected category, and holding people to a different standard. Curious what you think about having the difficult conversation part, and how do you actually have that conversation? I actually think this could be a great podcast topic for down the road is, "How do you have difficult HR conversations in general?"

Somebody who's coming to work wearing, shall we say unprofessional clothing, but is provocative, that's an awkward conversation. Just like someone who has body odor, or someone who's making weird noises, or what have you, and HR often will get stuck with the actual communication to that employee. I'm wondering if you have any thoughts on how best to approach it.

**Evan Gibbs:**

Well, I could tell you two things. The first point I'll throw out there is a friend of mine had to have a conversation with somebody about body odor, and this person was a manager, did not work in HR, had no HR training, but HR didn't want to have the conversation. They said, "You, manager, we've prepared a memo." They called it something like the Freshness Doctrine, or something like that. It had some kooky title. They were like, "Here's a written memo about body odor you've got to give to this employee, and you've got to talk to him about this body odor." The friend of mine is a female, and the employee was a male. You talk about awkward on so many different levels. Don't do that, for the love of the Lord. Don't stick some manager having this really difficult conversation, HR folks.

Be a part of this conversation with them, or if you don't do it on your own, but I think just throwing some softballs in there, like, "Hey, I just wanted to talk through with you the dress code here in the office. I'm not singling you out, and I'm not picking on you. We don't want to make you feel bad about yourself, or anything, but here's a particular item that we as a company don't necessarily permit within the confines of our dress code. You're pushing that line, and so we want to talk about appropriate clothing for the workplace." That may be a fair lead in, something like that.

**Katie Stark:**

Yeah, I think that's exactly what my thoughts were too. I think the HR team, at least here at Collegium, very professional, but also caring too. Making sure the employee knows, "We care about you, and we want to tell you this thing, because it's an issue, or causing an issue in the workplace, and we want to help you rise above that challenge."

**Tracey Diamond:**

We want you to be successful.

**Katie Stark:**

Exactly, exactly. I think that's a good way of approaching it too. It is very awkward and unpleasant, and I feel like most of the time, the recipients of the feedback just have no idea. They will make the improvement or change the behavior if someone talks to them about it in a professional, and, I think-

**Tracey Diamond:**

Empathetic. Yeah.

**Katie Stark:**

Yeah. Exactly.

**Tracey Diamond:**

Yeah, I agree with all of that, and I would add to that, that I probably would just acknowledge the awkwardness of it, rather than leave it as the elephant in the room, and just say, "I have to have a conversation with you that's a little bit awkward, but I'm having this conversation with you because I care about you as an employee, and I want you to succeed here. This is some things that we're noticing, or we're getting complaints about, and I want to bring it to your attention," and then launch from there, or kick it to HR so that we don't have to do it.

Okay. Last question I have, and an important one, is in terms of policy drafting. From a legal compliance standpoint, are there certain things that employers should watch out for when putting together a dress code? Some that came to mind is just laws about things like hairstyle, religious accommodation. Do you guys have thoughts on that?

**Katie Stark:**

I was thinking this along the same lines. You wouldn't want to have a policy skewed to be more restrictions, or more burdensome on females versus males, and of course, all of the taking into account the exemptions, and maybe being clear about the process or mechanism. For example, and I'm just making this up, but if no hats are allowed, and someone wants to wear a headscarf or a hijab, then I think there's a way that would be permissible exception to the policy, but there should be a way for them to know that, and to talk with HR.

**Tracey Diamond:**

If things get really complicated, I've seen this happen where religious accommodation requests like a headscarf may be conflicting with, let's say, safety requirements in a manufacturing facility, where you can't have anything flowing around that might get caught in equipment. Not always the easiest things to navigate, but certainly areas that you have to keep in mind to maintain compliance with the law.

**Evan Gibbs:**

Yeah, for sure.

**Tracey Diamond:**

All right. Well, listen, this was a super fun conversation, and I'm excited to see what your next fashion trend choice is in the future, Katie and Evan.

**Evan Gibbs:**

Well, Tracey, to be fair, we didn't hear your worst-

**Katie Stark:**

Good point. Good point, Evan.

**Evan Gibbs:**

... fashion mistake. We both shared our darkest fashion secrets, Tracey.

**Tracey Diamond:**

Well, I was hoping to get away with it, but you caught me. I would say that as a kid, flash downs was really big, and those leg warmers were a very big thing then. I had a pair of pink ones, and they got really dirty and kind of gross, but I wore them anyway, so anyway. Well, this has been super fun, guys. Thanks so much for listening, everybody. Don't forget to check out our blog, [HiringToFiring.Law](#), and tune in to hear our other podcast episodes, and tell us what you think. Love to hear some ideas out there. Thanks so much for listening.

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