

***Hiring to Firing* Podcast — From Concerts to Crisis: Navigating Workplace Scandals****Hosts: Tracey Diamond and Emily Schifter****Guest: Kris Jones****Recorded: September 3, 2025****Aired: October 7, 2025****Tracey Diamond (00:00):**

In this episode of *Hiring to Firing* Emily, we're going to talk about the infamous kiss cam episode that occurred during a Coldplay concert in July, which got me thinking, what was the first concert you ever went to?

**Emily Schifter (00:12):**

So the first concert I ever went to, I don't remember, but it was apparently James Taylor with my parents and I apparently loved it, but the first one I remember was Backstreet Boys for my birthday. I was I think eight years old and it was about the coolest I've ever felt in my entire life, and I still remember it to this day. What about you?

**Tracey Diamond (00:29):**

Well, I actually went to a James Taylor concert, but it wasn't my first concert. When I was in college, we went to see him at a Tanglewood and it was pouring rain and we were all under these sort of plastic slicker, completely soaked to the bone. It was my favorite concert ever for that reason. It was so much fun. But my first concert that I remember was the B52s, awesome. We sat in the front row and it was so much fun. Rock Lobster. Well listen in to this episode where we're joined by our partner Kris Jones, to talk about everything. Kiss cam and Coldplay.

[INTRO – “Fix You” by Coldplay]

**Tracey Diamond (01:23):**

Welcome to *Hiring to Firing*. I'm Tracey Diamond, labor and employment attorney at Troutman Pepper Locke and I'm here with my partner and co-host Emily Schifter. Together we tackle all employment issues from *Hiring to Firing*. Today we are going to delve into the infamous kiss cam controversy for those who may have missed it, though I can't imagine who have missed it at this point, this was when the CEO and Chief People Officer of a company called Astronomer who were both married but not to each other were caught in an intimate embrace on the kiss cam at a Coldplay concert in July, the two immediately ducked and Chris Martin, the lead singer of Coldplay, commented that they must be either having an affair or they were being shy, which compounded the moment the scene went viral and ultimately resulted in both executives resigning from the company and the CEO threatening to sue Coldplay for invasion of privacy.

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**Emily Schifter (02:17):**

So to unpack all of this, we have invited our partner, Kris Jones, white collar criminal expert to join us. Welcome, Kris. Before we dive in, why don't you tell us a little bit about your practice?

**Kris Jones (02:27):**

Well, thank you for having me today. I am a partner at Troutman Pepper Locke's white collar practice and investigations like this one, they're my bread and butter. I never wish this on a client, but I'm always honored to be their trusted advisor. In situations like this, I do a wide variety of investigations of sensitive matters for companies, colleges and universities, sports organizations, you name it, whether it's internal or government, there is practically no issue at this point I have not investigated.

**Tracey Diamond (03:00):**

Kris and I work really closely together on internal investigations, and it's really a pleasure to have you on the podcast. Kris, thanks for joining us.

**Emily Schifter (03:07):**

So it's not unfortunately unusual for the situation to come up where coworkers might have a romantic relationship, just given how much time we all spend at work, it can sometimes become problematic when the employees are in a reporting relationship or when one is in a position to influence the terms and conditions of employment of the other. Why is that a problem?

**Tracey Diamond (03:29):**

I'll jump in here. So there are two types of sex harassment. One is called quid pro-quo, and that's usually between a supervisor or someone, a higher up and a subordinate where the supervisor has authority over the terms and conditions of the subordinate's employment and that allows a supervisor to either threaten or promise benefits in exchange for sexual favors. So in other words, have sex with me or you're fired, or if you have sex with me, I will give you a big promotion or other terms and conditions. The other type of harassment, which isn't so much at play here as hostile work environment that could be between not only supervisors and subordinates, but also between coworkers and there, at least under federal law, the standard is severe or pervasive. So one really bad incident, a sexual assault could give rise to a harassment claim. Or what's more common is a whole bunch of other smaller incidents that taken together make it uncomfortable for the employee to come to work and a reasonable person would also believe that that was uncomfortable.

**Kris Jones (04:29):**

So this is why Tracey and I partner so well together. She knows all of the aspects of the employment issues created by situations like we saw with Astronomer, but legally the concerns are much broader than just harassment or discrimination type claims. These types of affairs, they create concerns about conflicts of interest, potential breaches of fiduciary duties. If you

think about it, you have two executives who not only owe a fiduciary duty to the board if this is a publicly traded company, there's duties to shareholders. Even if you just set aside the parade of legal potential horrors, you have to think about the practical issues this raises, and quite frankly, they're hard to summarize. What do we worry about here? Well, we worry about disrespect and disregard for company policies and the standard that it sets. We worry about the erosion of morale created by what could be viewed in hindsight as anything from favoritism to flat out unethical behavior.

It can create a culture of distrust and we worry about what happens when the relationship ends badly. Why do we worry about these things? Why do I worry about the morale of the company? Because situations like this create whistleblowers and they create people who are going to bring forth every complaint that they've ever had about the company. I haven't done an analysis, but I should have. I can't even tell you what a percentage of my investigations start with a jilted partner or start when employees find out that the executives said maybe they had a question, we're treating them fairly, they conclude now that they have been treated unfairly because there was favoritism towards someone else.

**Tracey Diamond (06:21):**

I just want to clarify here from what we understand, the CEO and CPO of Astronomer were in a consensual relationship. This was not a situation of harassment. The problem is it's consensual until someone says it's not consensual, and that's what could lead to all of these issues that Kris and I just identified.

**Emily Schifter (06:39):**

That's exactly right and Kris, I think your point about morale and some of the practical issues is so important not just because of the additional legal risk, the whistleblower risk that you raise, but just in terms of day-to-day productivity. It can make it really hard for managers to manage a team when they're saying, hey, the people at the top think the rules don't apply and I think that's such an important part of our practice in talking to clients through these issues. It obviously will help with the legal piece, but the practical piece can really be disruptive as well.

**Tracey Diamond (07:04):**

When I worked in house many years ago, I was hired as an employment counsel for this company and I was hired because they had been sued at the store level where every employee in the store was having an affair with the store manager except for one, and it was the one employee that wasn't having the affair that was feeling a little left out or I guess not being treated as fairly as the others. So you never know what happens at the company level.

**Emily Schifter (07:32):**

Well, you talked about this a little bit already, Kris, but are there any other concerns from a white collar standpoint about a relationship like this leading to illegal activity?

**Kris Jones (07:41):**

Oh, for sure, I think at a very base level efforts to cover it up, right? It's a natural instinct to immediately trash your phone or delete your emails or go to the other people who are at the concert with you and say, don't say anything. Don't say anything. This doesn't mean anything. You didn't see anything. Those kinds of what we would loosely call obstructive behaviors, obviously we don't know what actually happened at Astronomer, but in other situations we've seen that the coverup actually is worse than the activity that spawned an investigation and then what we have to be conscious of is whether this is part of boundary testing, maybe not at this level, but at other levels within a company. Is it part of the beginning of a pattern of behavior of employees seeing what they can get away with? If they can get away with this low level stuff going on a date with a coworker or something like that, does that escalate? Do they see what else they can do? Does today's philander become tomorrow's embezzler?

**Tracey Diamond (08:47):**

So interesting. Astronomer handled the situation from a crisis management standpoint quite cleverly, in my opinion, hiring Gwyneth Paltrow, Kris, which I thought was very tongue in cheek as a temporary spokesperson to respond to questions about the incident and to use the notoriety as a marketing opportunity to tout Astronomer services. Let's take a listen.

**[BEGIN CLIP]****Gwyneth Paltrow (09:15):**

Thank you for your interest in Astronomer. Hi, I'm Gwyneth Paltrow. I've been hired on a very temporary basis to speak on behalf of the 300 plus employees at Astronomer. Astronomer has gotten a lot of questions over the last few days and they wanted me to answer the most common ones. Yes, Astronomer is the best place to run Apache Airflow unifying the experience of running data ML and AI pipelines at scale. We've been thrilled so many people have a newfound interest in data workflow automation. As for the other questions we've received, yes, there is still room available at our Beyond Analytics event in September. We will now be returning to what we do best, delivering game changing results for our customers. Thank you for your interest in Astronomer.

**[END CLIP]****Tracey Diamond (10:11):**

What are your reactions to the way Astronomer handled this? I love the fact that they had a well-informed crisis response and PR team.

**Kris Jones (10:17):**

Have I done something like that? No, but I'm a lawyer and I always tell my clients that, right, when you're in this situation, bring the resources of PR professionals to bear and they clearly

did. Now, please run it past your lawyer first. But I think it was very clear they had sophisticated professionals involved.

**Emily Schifter (10:41):**

Clever. It was smart way to take advantage of the fact that they were getting no press is bad press, right? But I'm curious what they did internally with respect to their employees. Kind of going back to what we've been talking about, if there was, they clearly externally managed the message really well, but I'm wondering how they managed the questions internally, if there were any that were raised when these two high level executives are in the headlines, what employees were thinking about that?

**Tracey Diamond (11:05):**

Yeah, there was a lot of blowback about a third person who was caught on camera that may or may not have been an Astronomer employee and whether or not that person knew about it and was covering up the fact that this affair was going on. And then from what I read, it turns out Astronomer denied that that person was actually the person who was an Astronomer employee. So that kind of leads to this whole issue of what's true news and what's fake news these days. But getting back to this kiss cam incident itself short of hiring a famous ex-wife to create a video of what should companies do to avoid the fallout of a crisis such as what occurred here.

**Kris Jones (11:40):**

So this should be a tabletop exercise for companies, have a plan, have a crisis management plan, and think broadly about what constitutes a crisis. If you ask a lawyer a crisis is a cyber attack or a governance issue, but I think everyone's crisis management plan, and it doesn't have to be complicated, should be informed by incidents like this. Just have the first steps, know what your first steps are and the rest will flow from there. Who are your generals? Who are your lieutenants? Who is responding? And what is the initial message? If you have the first steps down and rehearsed, the rest is likely to go much better.

**Emily Schifter (12:25):**

Have you guys seen in your practices since the Me Too movement companies being more aware of situations like this and being more willing to think proactively just since so many companies have gone viral for the wrong reasons?

**Tracey Diamond (12:37):**

Kris what do you think about that? I have to say I feel like it's been sort of business as usual, and I don't see companies necessarily taking more of a harder lookout, better be prepared with a crisis management plan than they were before. But I wonder if you've seen anything different, Kris?

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**Kris Jones (12:51):**

I have not and I actually think companies are being a little slow to react to the impact of social media on their business. It's the kiss cam, it's the Cracker Barrel logo. You don't know when it's going to be your turn. And I don't see many of my own clients saying, oh, hey, we need to prepare for that. I think that's probably one of the messages of this podcast is again, think broadly about what constitutes a crisis.

**Tracey Diamond (13:18):**

And be prepared ahead of time because there's really not going to be a lot of time on the backend once the crisis actually happens. Emily, I have a question for you on the employment front. Assuming let's say that the CEO, I would imagine, and the CPO both had contracts in place and so they weren't at-will employees, they both left the organization super quickly here, what do you think went on the backend there in terms of looking at contractual obligations on the part of the company if assuming the company wanted them to exit?

**Emily Schifter (13:50):**

It's a great question. So, well, we kind of hit on this when we did our US first Canadian employment law podcast, but typically in the US most employees are employed at will with the exception of higher level executives. And they may have something more formal in place in a written employment agreement where they are entitled to severance benefits or payments if they're terminated without cause. And that's where what causes can become such a hot button issue or something that is pretty heavily negotiated. Often you'll see definitions, commission of a felony or just abject failure to perform duties, but sometimes you'll see broader definitions of cause that might include things like engaging in conduct that might reasonably bring the company into a bad light. Maybe in the board's opinion, you'll see different types of language in there, or maybe is there the ability to cure whether the situation could have been cured is probably up for debate.

But I also, it's a great question and kind of going back to the topic of being prepared. I think sometimes these are heavily negotiated definitions. Sometimes a company just has a standard form that they use and they don't really think about what does our cause definition say until it's too late, and then they want to exit somebody in this situation for something that they think will blatantly, I shouldn't have to pay you severance. But if their agreement doesn't call for violation of policies doing something that puts the company in a bad light, they may very well be on the hook for a severance payment for somebody who has caused a whole lot of trouble.

**Tracey Diamond (15:14):**

And a hefty severance payment at that. I have to say I've seen many termination for cause provisions, and I've never seen one that says consensual affair with an employee. But oftentimes it'll say violation of policies, which could include the harassment policy, but this again, was a consensual relationship as far as we know. And even the broader language that you suggested, which I have seen certainly about affecting the reputation of the company query, whether it did here, given the way the Astronomer saved the situation and turned it into a



marketing opportunity, it might've actually helped the company. I wonder what those contractual negotiations look like at the severance stage here. It's interesting.

**Kris Jones (15:54):**

I think what's particularly interesting about how this ends between the company employee is the question of whether it ends things from an investigative standpoint. Okay, so we had both executives resign here. I think companies in these viral moments have to ask themselves, is that good enough? Are we done here? I would have more questions. Who else knew who didn't report it? Why didn't they report it? Is our whistleblower program strong enough? Are there the right opportunities for employees to bring these concerns forward, particularly when it's at the highest levels of the company? I'm not sure I would advise a client to accept the resignation and run here. I think there's more work to be done.

**Tracey Diamond (16:45):**

Very, very good point, Kris. I'm glad you brought that up. So, all right, let's take a step back for a second. If an employee does complain that they believe that two executives in a reporting relationship are having an affair, what should the company do?

**Kris Jones (16:59):**

Well, clearly there needs to be an investigation and it needs to happen quickly. And the earliest steps of the investigation are perhaps the most important. Who do you notify your board? Who is in the circle of trust? Who is the leader and most important, who is conducting the investigation? Our clients are very, very sophisticated. They often have very strong personnel who can conduct their own internal investigations. They don't need us to do it for them. I would say in this case, they do. I think it is too much to ask a line level employee, even the most experienced and investigator to investigate two members of the C-suite in this situation. So figure out who your investigator is. I think pretty clearly here it's outside counsel. And then think about your order of operations. What comes to mind immediately for me here is preservation before notification. If I'm trusted counsel and I receive this call, this, oh my gosh, have you seen this go viral? Kris, what do we do? The first thing I'm doing is imaging computers and devices, right? That's immediate for me. I'm preserving because I mentioned this earlier, the instinct is to delete, right? I'm not sure that many employees caught in this situation wouldn't have deleted their phone before they got to the parking lot.

To the extent that you can preserve, then you should. You have to get your trusted employment law counsel. You've got to get Tracey involved and make the immediate decision. Are you suspending? Are you suspending without pay? What do their contracts say? And what do your policies say? I think it is really important and often overlooked to look at your own policy. What authority does it give you here? What does it prohibit? Is it clear enough on this issue? If you're talking about taking serious action, you better make sure you have a serious policy to back it up. And then you create your plan. You create your plan. For me, this is a written document. This is my roadmap, this is my checklist. It's not a static document, but what I'm trying to do is make sure I'm thinking through carefully every step of the investigation.

What documents am I going to collect? Who am I going to interview? What's the order of witness interviews an incredibly important decision here, right? Are you worried that either of these C-suite executives are going to start reaching out to subordinates and trying to shape their story? Are you worried about intimidation? Do you have enough to go to two members of the C-suite? Do you have enough information to confront them or do you need to build the case and gather a critical mass of information and in fairness to them, make sure that they have everything in front of them to respond to all at once? So you need to have a plan for that. You need to be thinking ahead to important issues. Is this going to be privileged? Do you want to conduct a privilege investigation with an eye towards maybe waiving privilege in the future?

If so, that shapes your work product that you're asking for. Are you going to write a report? Will it just be about the facts? And will it include recommendations? And what are the difficult questions? What do you expect the difficult questions are going to be in the investigation plan ahead so that everyone's on the same page with the response. So here's an example. A C-suite executive says, I want my lawyer in the room. What's the answer to that question? I'm given every answer in the reach. I've allowed lawyers in the room and I've said, no, it's not permitted by policy. This relates to your employment. I'm not answering your questions. I'm not cooperating. I'm not going to be a part of this. This is a witch hunt. Better plan for that is the answer. Your cooperation. This investigation is a condition of your continued employment. If so, you just better be ready to act on that. You need to have almost a script of all the avenues that this could take, because the better your plan, the more integrity your investigation's going to have.

**Tracey Diamond (21:21):**

Kris, to your point about earlier about who is doing the investigation and how in this type of situation outside counsel, it makes sense that it would be outside counsel because you don't want the person investigating being someone who's reporting up to the people being investigated. There are circumstances, like you said earlier, where internal investigations make a whole lot of sense, but it's really important that your internal investigators are trained in how to perform an investigation and techniques for the best practices and how to perform an investigation, which would include everything from creating your investigation plan through how to order witnesses, how to interview witnesses, gathering your documents and putting together your report. So really important that those folks are trained so that they're ready before the crisis happens.

**Kris Jones (22:08):**

I think a lot of folks think the moment itself, that gone viral moment is the worst case scenario. It's our job. Unfortunately, we're in the paranoia business to a certain extent to help them anticipate even worse case scenarios than that, for example, litigation. And so with this type of planning, an investigation like this with integrity that's carefully thought out and conducted pursuant to company policy can go a long way toward either heading off litigation or defending the company in the unfortunate event that it occurs.



**Tracey Diamond (22:43):**

So when you're drafting your statements and your summaries and your reports, you want to have an eye towards what is this going to look like if you're going to waive the privilege? And this is going to be a document used in litigation. So the investigation's way more than just an investigation, it's potentially pre-litigation, right?

**Kris Jones (23:03):**

Well, that's exactly right. Advice we give people in both conducting investigations ourselves and teaching them to conduct their own, it's all battle tested advice that our investigations have been investigated, our investigations have been litigated, and you learn a lot along the way about what works and what doesn't, what's defensible and what isn't. And having trusted outside counsel to either consult on a well run internal investigation by an employee or in these very serious situations where you need outside counsel to do it for you, will go a long way towards easing the outcome.

**Tracey Diamond (23:41):**

So in a surreal life imitating, imitating life imitating art situation, this real life kiss cam episode reminds me of an iconic scene from Modern Family, the sitcom that played for many, many years. When Phil, one of the characters' dream comes true when he's at a game with the beautiful Gloria, the wife of Phil's father-in-law, and she kisses him on the kiss cam during a basketball game. Let's take a listen.

**[BEGIN CLIP]****Phil (24:06):**

It's the kiss cam. When it lands on you, you're supposed to kiss. This is my wife's dad's second wife. So legally okay, but still weird. That was awkward. And we're back.

**Gloria (24:27):**

Hi, come on. It's not a big deal.

**Claire (24:30):**

Thank God for caller ID, so you don't have to talk to your wife. Oh, we're going to talk, Mr. We're going to talk and talk and...

**Alex (24:37):**

Dad, mom saw you on TV. You're dead.

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**Phil (24:47):**

Here's the thing. The kiss cam is only supposed to be for the enjoyment of the people at the game. They never show that on TV. What people do in the privacy of their own sports arena should be their own business.

**[END CLIP]**

**Tracey Diamond (25:00):**

Folks, thanks so much for listening to us today. Thank you, Kris, for joining us for an episode of *Hiring to Firing*. Please check out our blog, [HiringtoFiring.Law](#) and our other episodes, which you can find anywhere you get your podcasts. Thanks for listening.

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