Proper Tone in Performance Management: How to be Andy In a Barney World

Tim K. Garrett, Esq. 615-742-6200 tgarrett@bassberry.com

BASS BERRY+SIMS...

Sheriff Taylor and Deputy Fife



BASS BERRY+SIMS...

Short Answer

- Rules and Relationships
- Barney
 - ▶ Rules are primary
- Andy
 - ▶ Relationships are primary

BASS BERRY+SIMS.

Definitions	
Rules Negative commands (no discrimination, no	
retaliation, no absences without calling off)	
 Positive commands (reasonable accommodation, treat others with respect) 	
Relationships	
External (customers, vendors)	
Internal (employees)	
BASS BERRY+SIMS	
Delever	
Balance	
How do we balance enforcement of rules	
within the context of valuing the	
relationships?	
There are no all-encompassing rules to answer each instance	
Rules and policy enforcement must be in	
context of relationships Requires discretion and judgment (NFL)	
example)	
BASS BERRY+SIMS.	
So How?	
Recognize the inherent "tension" but not a	
conflict	
ldentify objectives inherent in the rules	
Recognize problems in "rules-first" tone	
Identify and advance concepts for an "Andy world"	
raid, world	
BASS BERRY+SIMS	

"Tension" But not Conflict	
Some perceive rules "enforcement" (discipline, counseling) as impairing or damaging to relationships Not true in an Andy mindset Expectations imply capability Constructive enforcement implies that you value the relationship	
BASS BERRY+SIMS	
OBJECTIVES	
 Rules are for formation – not merely information Formation of the work culture Rules (and their enforcement) fit a "narrative" Not merely a legal defense Tone set from the top of any organization How to identify and advance proper narrative Reasons for the rules Purposes that the policies are designed to serve 	
OBJECTIVES (cont'd)	
How to be (or train others to be) Andy, not Barney If "successful" (even if only heighten awareness), will find that other concerns Are eliminated or lessened Take proper place in priority	
BASS BERRY+SIMS	

A Barney World	
 Serve rules not relationships Authority – "Because I said so" (or "corporate" or "the law" says so) Fear motivation if disobey Or pride motivation – the compliant feel superior Litigation risk avoidance Relationships "commoditized" Tone in performance management If happens again, you're in more trouble BASS BERRY+SIMS. 	
A Barney World (cont'd)	
◆Some may respond	
▶ But no transformative impact	
◆ Some become "minimalists" (or cynics)▶ Speed limit example	
▶ What can I get away with?	
 Sows seeds of the very mentality trying to avoid ("me first" mentality) 	
BASS BERRY+SIMS	
Barney World Problems	
• "Citizens arrest"	
► We fail to satisfy our own standards	
Chastens us	
Barney in "Citizens Arrest" episodeMust use discretion and judgment	
◆ But creates risk	
challenges us to be candid about our motivesforces us to identify underlying objectives	
BASS BERRY+SIMS.	

An Andy World	
What is our work for?	
Work and Rules serve greater purposes	
Relationships primary	
Overriding tone – Dignity in all work And in all workers – valued for who they are and	
held accountable to help them be successful	
 Provides you and your subordinates with fulfillment, sense of team 	
 Attitude penetrates all aspects of policy and legal compliance 	
BASS BERRY+SIMS	
An Andy World (cont'd)	
Other minded	
For external relationships Ultimate end-user – customers	
For internal relationships – "team"	
Mindset serves the only thing that provides	
job security – satisfied customers	
BASS BERRY+SIMS	
Identify and Advance "Andy"	
Perspective	
♦ Work as calling – called to do it well	
Not primarily for self – for others	
(customers and teammates)	
You are the main contributor to creating work any ironment you.	
creating work environment you would want to work in	
BASS BERRY+SIMS	

Tone in Performance Management	
 Duty to act Not as Barney – lording authority With humility – recognize your failings too 	
Sharing improvement necessary and how to improve is serving the dignity of the work	
+ Shows respect for the person and for the team + Shows commitment to their improvement (person is	
capable) and to improvement of the culture of the team	
 Shows commitment to the employment relationship Serves the only thing that provides job security – satisfied customers 	
BASS BERRY+SIMS	
Penetrates Legal Compliance	
 Relationship issues throughout Discrimination claims 	
 Retaliation claims ADA interactive process 	
 Leave notification and application process 	
 No guarantee of no charges or lawsuits, but more defensible 	
But beware of falling into commodification mindset	
Timidoot.	
BASS BERRY+SIMS.	
Real World Examples	
 Tim is 5-year employee developed chronic condition 	
▶ took continuous leave for 6 weeks	
 returning to work with restrictions ADA/FMLA concerns 	
Interactive process	
 Relationships (Tim, employees, customers) Rules (job requirements, leave rules) 	
BASS BERRY+SIMS	

Bool World Evernles (contid)	
Real World Examples (cont'd)	
♦ Sara complains about Joe's	
unprofessional conduct of sexual nature	
Joe is confronted, and he shows text	
messages and pictures – appears Sara was a consensual participant	
▶ Relationships (Joe, Sara, "significant others",	
other employees, the "process")	
▶ Rules (sexual harassment, investigations)	
BASS BERRY+SIMS	
Respect	
•	
For process of Company For integrity of complaint procedure	
For relationships – "human resources" or "economic	
units" Recognize credibility issues	
Can include turning "blind eye" to deeds of othersWhat contributes to being genuine?	
What contributes to being genuine? What detracts from being genuine?	
Example from movie "The Book of Eli"	
BASS BERRY+SIMS	
Respect (cont'd)	
Respect roles of others, and praise when doing	
it well Respect undermined by offensive comments	
Cursing (you know the ones most offensive)	
 Comments that undermine dignity of all work Respect undermined by words or deeds that 	
reflect "I don't care"	
 I'll get back to you but no follow up Your actions are "enacted for arrative" – what 	
storyline do your actions fit?	
BASS BERRY+SIMS	

Caveat	
Other" perspective will be more fulfilling BUT, you will envision a greater good than you can accomplish	
Will fail (and "fall")	
But, over time, instances will lessen if we live mindset that relationships are primary	
and all work has dignity	
BASS BERRY+SIMS	
Thanks	
QUESTIONS?	
BASS BERRY+SIMS	