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Draft to Survive: Contract and Policy Lessons from Car Racing

Race car circuits are not typically where HR professionals and corporate counsel look for contract and compliance lessons, yet the *McLaren Indy v. Palou* dispute offers a tutorial on drafting agreements with high-visibility talent, managing communications, and enforcing document preservation policies. It also reminds us that litigation is not always worth it—while it may win you a race, it can lose you the championship.

The Backdrop: Fast Deals, Faster Fallout

The dispute centers on IndyCar driver Alex Palou's decision to remain with Chip Ganassi Racing for the 2024–2026 IndyCar seasons after having signed with McLaren's Indy team in 2022 to race beginning in 2024. Palou claims McLaren induced him to sign by promising a meaningful opportunity to compete for a seat on its Formula One team, a prospect foreclosed shortly after McLaren signed Oscar Piastri. McLaren denies making any F1 seat promise and is suing Palou for breach of contract, seeking more than $25 million in damages allegedly stemming from lost sponsorships, performance bonuses, and replacement driver costs.

Ganassi Racing and Palou resolved their 2022 dispute through confidential mediation. McLaren, however, opted for public litigation—and with it, a public relations blowout that exposed internal strategies and unsecured leadership communications, including WhatsApp messages suggesting evidence spoliation. The public nature of the proceedings may damage not only McLaren's reputation and goodwill but also team dynamics and morale across affiliates, particularly amid allegations that Piastri's hiring was forced on McLaren's F1 principal. The case has become a study in what every organization making strategic hires should and should not do.

Lesson 1: Start Off the Grid with a Good Contract

Disputes with top-tier professionals—whether race car drivers or CEOs—pose brand risks first and legal risks second. And when negotiations go awry, the forum matters as much as the facts. Robust confidentiality and arbitration provisions can prevent public fights, protect sensitive commercial terms, and contain the "crash debris" radius.

Organizations should scope these provisions to capture disputes arising from negotiations, contractual breaches, and post-termination situations. Equally important is drafting separate arbitration and confidentiality provisions, as arbitrations are not inherently confidential and arbitration clauses are not always upheld. Finally, organizations should not overlook a contract's merger clause. Depending on the jurisdiction, a standard merger clause may be insufficient to foreclose fraudulent inducement defenses.

Lesson 2: Don't Ignore Communication Red Flags

Executive communications about material deal terms, personnel, and strategies on external channels are often clunky, easily taken out of context, and, importantly, discoverable. Among the most damaging revelations in the *McLaren–Palou* case were WhatsApp messages from senior leadership allegedly directing team members to delete chats and enable "disappearing messages" to reduce lawsuit exposure. In many legal forums, such conduct can lead to severe consequences for evidence spoliation, including fines, adverse inference instructions, or even adverse findings.

Informal communication channels like messaging apps are convenient but legally hazardous. They lack institutional control, retention, and privilege safeguards, and often encourage informality that undermines policy compliance. The fix should include implementing enterprise messaging systems with retention controls and audit trails; adopting BYOD policies that either prohibit material business on personal devices or apply mobile device management and legal hold capabilities; and enforcing document retention protocols that prohibit message deletion.

Lesson 3: Strategy Doesn't Win Races—Execution Does

Effective communication and document retention policies require training and follow-through. Training is key and should be scenario-based for senior leaders and cover key topics such as: (i) messages in apps are written documents in the eyes of the law, (ii) when to put something in writing and when to pick up the phone, (iii) when to notify legal counsel of a potential dispute, (v) what to do upon receiving a legal or litigation hold letter, and (v) how to lead by example on these subjects.

Using real-world examples of the very serious professional and personal fallout experienced by high-profile executives, such as in the *McLaren v. Palou* matter, can make training resonate. Organizations should also ensure legal holds are issued promptly at the first sign of a legal dispute, reach all relevant people and systems (including cloud chats and, where permitted, personal devices), and suspend any auto-deletion settings. Finally, accountability matters—employees, including executives, must face consequences for infractions.

Lesson 4: Winning a Race, Losing the Championship

Choosing public litigation over confidential resolution can create collateral damage that outweighs any recovery. When senior leaders are key fact witnesses and their private messages will be scrutinized, the value of vindicating a legitimate wrong must be weighed against reputational risk.

In *McLaren v. Palou*, the public narrative now includes questions about whether McLaren's leadership is fractured, intentionally misled people for competitive advantage, or was careless about communications and engaged in evidence spoliation. That perception can depress morale, erode trust in leadership, and impair retention and recruitment. It can also erode goodwill and deter investors and sponsors—potentially eclipsing the $25 million McLaren claims it lost from Palou's alleged breach.

The Checkered Flag

The *Palou–McLaren* saga underscores that speed without control courts disaster. For high-visibility hires, the winning line is drawn well before the green flag: negotiate with precision, memorialize with disciplined contracts, communicate through governed channels, and enforce retention and legal hold requirements with real accountability. When disputes arise, choose venues and strategies that protect both the legal position and the brand. Organizations that embed these controls into their operations and culture will not only reduce litigation risk but also preserve the trust that keeps sponsors, talent, and stakeholders in their lane.

FOR MORE INFORMATION

For more information, please contact:

Glianny Fagundo
404.407.3677
Glianny.Fagundo@ThompsonHine.com