

Well-planned layoffs avoid lawsuits

BY JONATHAN WALKER
MASON, MASON, WALKER & HEDRICK, P.C.

Thirty thousand employees at Ford Motor Company just discovered there is no such thing as a permanent job. Two million workers every year find this out, two-thirds of whom are minorities, women, disabled, or older workers. Only a fraction of those workers need to file lawsuits to keep employment lawyers busy.

While the 1980s was the decade of trimming the fat for American business, changes in technology, international competition, defense spending, and a steady dose of mergers reveal many employers continue to reduce their workforces, even in the warming light of economic recovery.

Even sophisticated companies, however, make stupid employment decisions when conducting a layoff. While their intentions are honor-

able—to maximize profits and eliminate the least valuable employees—they often make critical mistakes.

A smart employer will develop and follow a clear set of rules for termination selection *before* making selections. The reasons for termination may vary from economic necessity to reorganization, and each one of these reasons or combinations may merit a different approach to selection rules.

Whatever the reason, the goal is to eliminate as much subjectivity as possible from a very personal and subjective process. For example, seniority is an obviously objective selection rule—the problem is that following the rule strictly may lead to losing workers who contribute more to the company than certain senior workers.

tion process, it will be less vulnerable to attack. If using evaluations specifically for layoff decisions, they should be based on quantifiable criteria—perhaps using a rating system. The following guidelines may be helpful to obtain greater objectivity:

- Use multiple evaluators.
- Use multiple areas of evaluation.
- Do not allow evaluators to see each others' evaluations
- Use rankings for multiple employees engaged in the same job
- Have a central office, such as a higher manager or HR, review the evaluations for protocol and objectivity.

Remember the goal is to be able to defend your selection before the EEOC and any court. If you have questions, it is best to involve your employment lawyer early in the process, rather than later in litigation. ▼

Jonathan Walker is a partner in the law firm of Mason, Mason, Walker & Hedrick, P.C. where he practices employment law and civil litigation. Mr. Walker can be reached at 873-3909 or by email at jwalker@masonwalker.com.