Cullen | Dykman

Cutting Costs and Avoiding Liability

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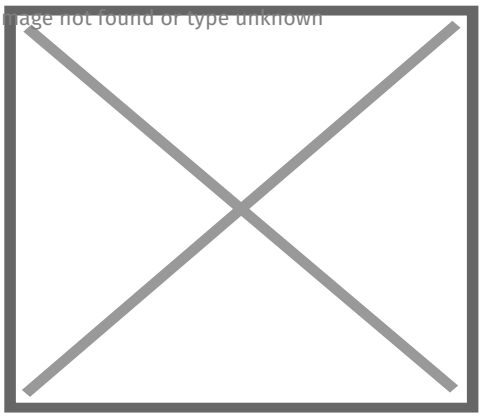

Navigating Troubled Waters - Reducing Headcount to Cut Costs and at the Same Time Avoiding Liability

We recently had a client who needed to reduce employee headcount in order to meet budget constraints. We assisted the client in preparing and presenting a voluntary reduction in force program that was offered to a group of employees who were eligible based upon their combined age and years of service with the employer. Due to the obviously sensitive nature of this matter, the client requested that we participate in the roll-out of the program to the eligible employees so that we could assist in answering any questions that they might have. The hope was that a sufficient number of employees would accept the voluntary incentive so that a less generous involuntary program would not have to be conducted as well. While a number of employees elected to participate in the voluntary program, and received enhanced benefits in exchange for their execution of a resignation agreement and release, the employer still needed to make additional savings out of its workforce. As a result, we then implemented an involuntary reduction in force in which all positions were eligible for elimination and in which the benefits offered to those selected were less than those offered in the voluntary program. We assisted the client in reviewing the selections for inclusion in the involuntary program to ensure that they would withstand any disparate treatment and/or disparate impact challenges. All of the employees selected for involuntary lay-off, including a few who had passed on the voluntary program, ultimately accepted the benefits package offered by the employer in exchange for executing resignation agreements and releases. In the end, we successfully assisted the client in achieving its objective of realizing cost savings while at the same time protecting it from litigation by securing releases from all affected employees.

Practices

- Labor and Employment

Attorneys

- Gerard Fishberg