



Chapter 2

Corporate Downsizing

By **C. David Morrison**
Steptoe & Johnson
Clarksburg, West Virginia

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§ 2.01. Overview.

Employers are frequently faced with the necessity of downsizing operations to meet increased competition, to contain costs, or to achieve greater efficiency of operations. In many cases, a significant reduction in an employer’s workforce cannot be promptly achieved through relatively modest measures (*e.g.*, hiring freezes, job sharing, elimination of overtime) and the employer may need to consider a voluntary or involuntary reduction-in-force (“RIF”). RIFs can pose significant legal hazards for the unwary—both in terms of selecting employees and in implementing RIF programs. This chapter discusses what an employer must consider in determining whether to conduct a RIF, how to conduct the RIF and what benefits issues to consider when conducting the RIF.

§ 2.02. Potential Sources of Liability.

In conducting any reduction-in-force, the employer must be familiar with the legal theories which can give rise to liability. Otherwise, the employer cannot do a proper risk analysis for a RIF and the employer will be effectively going into a RIF blindly. Not only is defending a wrongful discharge or discrimination case costly, jury verdicts for wrongful discharge or discrimination cases often reach over six figures and sometimes seven figures. Therefore, each decision to discharge a specific employee must be thoroughly analyzed. This section reviews most of the legal theories to consider when conducting a RIF.