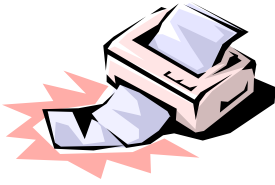


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Are You Planning to Recall or Rehire Employees or Hire New Employees?

By Attorney Douglas P. Seaton



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Seaton | Beck | Peters
The Lawyers for Employers

Alec J. Beck
Robin N. Kelleher
Brittany Mayer-Schuler
Michael L. McCain
Jon S. Olson
Gregory L. Peters
Thomas R. Revnew
Emily L. Ruhsam
Douglas P. Seaton
Bryan T. Symes
Corie J. Tarara
Scott A. Becker,
of counsel
Robert L. Grossman,
of counsel

7300 Metro Blvd, #500
Minneapolis, MN 55439
Tel 952.896.1700
Fax 952.896.1704
www.seatonlaw.com

The Upper Midwest's premier
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First, congratulations; second, be careful! There are pitfalls you should avoid and protective steps you can take to minimize your risks and maximize your advantages and flexibility in recall, rehire and new hire decisions as business improves. The following are some items you may wish to consider and take action on:

- **Consider Any Seniority Issues.** Unless you are subject to a union labor agreement, civil service rules, or an equivalent company policy, you are not obligated to recall or rehire in seniority order (most senior or first-laid off), but you may want to consider length of service, along with qualifications for the job, productivity, disciplinary and absence record and other relevant factors, but it is best to provide for this in a company policy.
- **Update Your Employee Handbook Policies, Job Descriptions And Hiring Materials.** If you haven't done so prior to the layoffs themselves, you should now update these materials to cover your preferred recall, rehire and hire procedures, qualifications and policies.
- **Prepare A Hiring Policy.** Having such a hiring policy is extremely important to legally defend your recall, rehire and hire decision when necessary and to prevent litigation claims by those who may assert that your hiring decisions were improperly based on race, color, creed, age, union affiliation and other protected classifications.
- **Persona Non Grata.** If you have employees you do not want to recall or rehire for reasons which amount to cause for termination, such as bad discipline records, complaints from other employees or customers, mis conduct during employment or during layoff, or other issues you may not have addressed prior to the layoff itself, you shouldn't try to avoid confronting these facts. It is far better to communicate in writing to the employee that they are ineligible for recall or rehire and thus terminated for these reasons, preferably in a written format conforming to the Reasons for Termination Statute. If you do not do this, you risk not being able to raise these issues if the employee files a claim against you for failure to recall with no explanation.

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- **Implement New Screening Procedures.** Consider policies (they must be in writing and legally compliant) on drug and alcohol testing, physicals, background checks and (when appropriate) credit checks on new employees, and recalls after long layoffs as well, since you will be able to take more precautions with a weak labor market than previously.
- **No Right To Recall.** Make clear in your policies that recall is not guaranteed, since there is no legal requirement that you do so for a layoff, so long as you maintain your status as an at will employer.
- **Maintenance Of Status Quo.** You are not obligated to maintain an employee's prior wages or benefits, if they have been changed uniformly for other employees in that classification or if you have adjusted wages individually on a consistent merit basis (different rules do apply in cases of return from legally required leaves of absence).
- **Avoid Permanent Layoffs.** You should establish a clear deadline and automatic termination point for employees who are on layoff who are not recalled by a certain date or who reject or fail to respond to a recall notice.
- **Effects On Benefits.** You should understand and provide in your policy for the implications of layoff, recall and rehire decisions on employees' medical insurance and other benefits to avoid confusion about whether employees are covered during or after recall from a layoff, what effect absence during layoff has on accrual and accrual rates for vacation and other employment benefits which may be tied to length of employment and similar issues.

Congratulations again on reaching a point in your business recovery that you are in a position to recall, rehire or hire new employees. We recommend that you contact us for "tweaking" of your employment materials (or newly drafting them if you do not have comprehensive materials), so that you're in a position to enjoy the benefits of your recovery with a minimum of risk and difficulty.

If you would like to discuss these issues further, please call the author, or any Seaton, Beck & Peters lawyer for a no-cost initial consultation at (952) 896-1700.

Seaton, Beck & Peters Offers Immediate Training Package on EFCA (Card Check) and Union Issues

The experienced labor lawyers at Seaton, Beck & Peters, P.A. are ready to assist you in meeting the challenges presented by EFCA (Card Check) by offering training to your supervisors and managers which will prepare them to:

- Discuss the impact of EFCA with your employees
- Recognize the signs of union activity
- Legally discuss the true impact of unionization with your employees
- Counter the arguments and misinformation made by union agent.
- Explain the true meaning and serious consequences of card signing

Unlike most law firms, we are also prepared to conduct educational sessions for your **rank-and-file employees**, to help them understand how EFCA will affect their workplace and their lives, and to present the arguments and facts against unionization to them before union agents approach them.

Training sessions for either managers or for rank-and-file employees (at your location) in the Minneapolis/St. Paul Metro Area are offered for \$1,150.00. Sessions for both groups on the same day are offered for \$1,750.00. [Ask about pricing for sessions in out-state Minnesota & the Upper Midwest and for our Association discount.]

For more information, or to schedule training, contact Doug Seaton, Alec Beck, Greg Peters, Tom Revnew or Jon Olson at Seaton, Beck & Peters, P.A.

952-896-1700 or firm@seatonlaw.com

Are Your Employee Handbook And Employment Documents Protecting Your Firm Or Putting You At Risk?

If your Company's employee policy handbook, hiring and discipline materials, drug and alcohol testing policies, or other critical labor or employment documents or policies are more than 2 years old (or non-existent), your Company is at risk. Contact us at 952.896.1700 or firm@seatonlaw.com if you are interested in a complimentary review of your materials and information on our cost-effective "fixed fee" program to customize and update these materials for your Company. The cost is \$875.00 for handbook and employment materials (with 2 hours customizing time included) and \$425.00 for drug and alcohol testing policy and materials (with 1 hour customizing time included).