

Downsizing Fallout:

Awareness and Preparation Will Help Protect You and Your Business

by Ken Von Forell, CPCU, Hortica Insurance & Employee Benefits

Whether you call it “downsizing”, “rightsizing”, or by the old school name, “layoffs”, it’s an unpleasant but necessary step that many business managers today are taking.

In these difficult times of a shrinking economy, tight credit, and wide-scale unemployment, many managers have already undertaken the tasks of reducing staff, reducing hours, implementing furloughs, freezing or cutting wages, reducing benefits or combinations thereof.

The choice of what action to take, and the scale of that action, will take all the management expertise and fortitude you can muster. You know, or have a good idea of, how you think each employee will take the news. Most people are reasonable; many could see it coming; and most would make the same decisions if they were in your shoes.

However, there will be times when the reactions are not what you expected, not what you planned for or even what you can imagine. Desperate

people can sometimes do desperate things. Reaction to being let go will run the gamut of emotions. And not everyone is going to go “quietly into the night” and look for another job. Disgruntled ex-employees can cause you sleepless nights, legal battles, and even threaten your safety and the safety of others.

buy to protect your business.

Sometimes employees want to get more in your face with the retaliation. Legal actions for wrongful termination, discrimination, and sexual harassment are common ways ex-employees strike back. These actions are referred to as “employment

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Let me share a few examples of what I have seen over the years. Vandalism is a common way for disgruntled ex-employees to exercise revenge on a former employer, and company-owned equipment is the common target. Sugar in the gas tank, stolen distributor caps, and flattened tires are common acts of vandalism.

Some ex-employees are much more diabolical. One case I remember involved the dumping of a gallon of Roundup herbicide into the automatic fertilizer system at a large greenhouse. By the time the plants were all fried, the former employee had already vacated his apartment and left the area.

Another employee took one last trip into the greenhouse to supposedly gather his things. While in the greenhouse he discretely repositioned a high-power grow light from an up position to a down position on its support. In the up position, everything was fine; in the down position the very hot light came into contact with the energy curtain when the curtain closed at night to keep the heat in the greenhouse. The resulting fire damage was almost \$200,000.

Physical destruction by vandalism or theft of equipment, supplies, money or product is frustrating, but most losses can be covered by properly written property insurance that you

practice hazards,” and are a common use of the legal system today. As a result, employment practices liability insurance is a recently introduced product commonly being purchased by business owners of all sizes.

One small business owner fired an employee for poor performance. In less than 30 days the business owner received a summons stating he was being sued for sexually harassing the employee. The workplace was allegedly hostile to the female employee. It takes a lot of time and from \$10,000 to \$40,000 to defend yourself against such an action, even if you are innocent. In this case, as proof of the hostile environment, she produced e-mailed jokes of a sexually explicit nature that had circulated on the company e-mail.

The last area to mention is fraudulent medical or workers compensation claims. It is expected that when there is downsizing of a workforce, any and all legitimate medical claims against an employer-sponsored health plan will be filed. It is perhaps naïve to think that people won’t take advantage of the system to file other claims that they normally wouldn’t file if still employed.

The workers’ compensation system is one that many displaced employees are quick to take advantage of. One larger employer found that every year

Continued on page 28.



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various types of irrigation techniques to assure that the containers receive the appropriate amount of water to sustain the plantings. Don was particularly mindful to suggest ways to hide the drip lines so the overall presentation is more aesthetically pleasing.

Lighting and water feature concepts were illustrated both inside and outside the showroom. Rancho Bravo's mobile unit offered an abundance of Mexican delicacies and High 5 Pie, another Capitol Hill favorite, supplied fresh homemade fruit pies.

DOWNSIZING FALLOUT

Continued from page 22.

after they had let their seasonal workforce go, a significant spike in sore back claims, sore shoulders, etc. were filed. In the recent downturn, one company thought they were doing their employees a service by giving notice of layoffs two weeks before the layoffs took place. The number of claims filed in those two weeks dwarfed the number of claims filed over the previous two years.

What to do? Where to go for help? Here is the shameless plug for a

good insurance agent who knows and understands your business. Theft, vandalism and property damage of all types are an easy fix. Employment Practices Liability Insurance protection requires some attention. Some companies build in a limited amount of coverage for a very reasonable premium. Stand-alone policies of higher limits are available to customers for reasonable rates today. The time to buy it is before you have a problem.

Finally, one area that insurance companies and agents are providing

value-added services to policy holders is in the area of Human Resources consulting. Many times if you buy a policy for protection, it comes with consulting services from HR specialists or defense minded attorneys, with no additional cost. If you have suspicions that a necessary action might result in a very negative response, you have a chance to discuss it with an experienced professional who can walk you through the steps to protect yourself and your business from these expensive and troublesome pitfalls.