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KEEPING THE LAWYERS AT BAY: TERMINATING EMPLOYEES IS RISKY BUSINESS, AND THE TRICK IS TO DO IT WITHOUT LITIGATING

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One of the most difficult undertakings for any employer is carrying out a decision to terminate an employee. Even in states where the at-will employment doctrine is recognized, the termination decision creates the greatest risk of legal liability. In federal courts, most employees sue because they have lost their job or fear they will lose their job. While most discharges do not result in lawsuits, those that do generally could have been avoided or easily defended with minimal planning. The key is to properly evaluate the termination for legal risks, act consistently with past actions and structure the termination.

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Andria Lure Ryan

Partner

404.240.4219