

THE KRIZNER GROUP
AN EMPLOYMENT LAW BOUTIQUE

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**Walking The
Tightrope With A Piano:
Navigating Employment
Law Risk Within Your
County**

Walking The Tightrope With A Piano: Navigating Employment Law Risk Within Your County

- 1. Verdicts Are Up: Pay Attention To Issues Of Legal Risk Throughout The Entire Employee Life Cycle, Especially At The Beginning AND End!**
- 3. Separation Packages: Are They Still Legal? Crucial Language Additions**
- 4. Criminal Background Screens Under Attack: Creating Green Memorandums**
- 5. How Did You Miss This? Screening Against Negligent Hiring**
- 6. The Morgan Dynasty: “For The People” & Daily Management Failures Under The FLSA**
- 7. Can’t Touch This: Managing Contagious Illness Within The Workplace**
- 8. Who’s The Boss: Confirming The *Vance* Supervisor**
- 9. Navigating The 3 Ps Of Policy, Practice, & Precedent**
- 10. Its Only A Matter Of When: Employment Non-Discrimination Act**
- 11. The More Mature Matter: 33% And ADEA Mistakes**
- 12. Setting The Corrective Plan To Mitigate Against The Retaliation Claim**
- 13. The Interactive Process & Getting Credit Under The ADA**
- 14. A New Record: Religious Challenges On The Rise**

DON’T FORGET FACT PROACTIVE TOOLS TO MINIMIZE RISK...

- ANNUAL EMPLOYMENT LAW COMPLIANCE AUDIT**
- TRAIN, TRAIN, & TRAIN!!!**
- JUST CALL - REALLY JUST CALL!**

Involuntary Separation Memorandum

Name of employee involuntarily separated: _____

Date employee was involuntarily separated: _____

Description of historic efforts utilized to encourage employee toward acceptable performance: _____

Detailed description of the event/behavior ultimately causing the decision to involuntarily separate the employee: _____

Set forth each and every witnesses to the event causing the involuntary separation

Note: Attach any supporting documents, such as witness statements, schedules, etc. to this memorandum that support the decision to involuntarily separate the employee.

Supervisor Signature

Date

TERMINATION RISK SCORECARD

I. Protected Class Consideration (10)

- Is the employee the minority gender compared to your population?
- Is the employee the minority race compared to your population?
- Is the employee forty years old or more mature?
- Are you aware of any ongoing medical related issues with the employee?
- Is the employee Gay or Lesbian?
- Has the employee incurred a workers compensation injury in the past two years?
- Was the employee born outside the country or of a unique ethnic background?
- Has the employee informed anyone of the employee's religious beliefs or practices?
- Has the employee used Family Medical Leave time in the past two years?
- Has the employee complained of illegal or unethical behaviors in the past two years?

II. Additional Risk Indicators (17)

- Did the employee receive a favorable evaluation within the past year?
- Did another employee in a similar position receive a less favorable evaluation within the past year?
- Has the employee worked for the Organization for more than a year?
- Has the employee worked for the Organization for more than five years?
- Has the employee worked for the Organization for more than ten years?
- Does the employee earn more than \$30,000 annually?
- Does the employee earn more than \$60,000 annually?
- Does the employee earn more than \$100,000 annually?
- Is the employee's supervisor new to supervising the employee within the past two years?
- Has there been no formal corrective or disciplinary action issued to the employee in the past year?
- Has there been no formal corrective or disciplinary action ever issued to the employee?
- Has the employee complained about the employee's supervisor in any capacity?
- Has the employee suggested that the employee has consulted with legal counsel?
- Will the employee be replaced by an individual(s) outside the employee's protected class?
- Does the employee work in the human resource function?
- Has the Organization received a Charge of Discrimination within the past five years?
- Does the Organization have any other ongoing employment law claims currently?

III. Precedent: The Highest Risk Indicator (If true, add 3 points)

- Has there been another employee engaging in similar behavior in the past who received a lesser consequence than the employee in question?

Total Risk Points: _____