

## Layoffs are likely to continue— Don't let down your guard

Recession predictions continue on a daily basis, but the reality is that layoffs are likely to continue, albeit hopefully at a slower rate. Therefore, now is not the time for employers facing layoffs to be anything less than deliberate and thorough in how they handle them.

It is imperative that *objective criteria* for determining which employees are to be laid off be both decided upon in advance and well-documented. Typical, appropriate criteria include seniority, job duties, department or division, and performance.

Seniority is the most typical and least problematic criteria used, but unfortunately often the situation is not that simple. The best solution can sometimes be to consider a combination of factors. It is critical, however, that the decision be as objective as possible and that it not appear the need for layoffs provided an excuse for an employer to target a particular employee for termination. In other words, it should not appear personal.

Employers must also take care when terminating employees on a workers' compensation leave, medical leave or other protected leave of absence. While these employees may certainly be considered within the pool of prospective layoffs and their leave status does not guarantee them continued employment, employers should use extreme care in formulating their objective criteria if employees on protected leave will potentially be laid off so as to avoid claims of discrimination or retaliation. Moreover, experience demonstrates that juries do not like to see employees laid off when they are on the "injured reserve" list.

A common mistake is to use salary as the sole criteria; that is, to layoff the highest paid employees and thereby save the greatest amount of money. However, this practice could result in age discrimination. The courts have stated that as a general concept the highest paid employees tend to be the older employees and, thus, eliminating the highest paid / older employees could result in a claim that an employer has discriminated against workers over the age of 40.

Whatever objective criteria are ultimately used, it is critically important to document

## The 2009 Board

If you have questions, comments, suggestions, needs, or desire to volunteer, contact a board member.

\*\*We currently have an open board position. We are looking for a volunteer to fill our Marketing and Sponsorship Director Position. If any members are interested, please contact the President.\*\*

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## Upcoming Luncheons/Events

- Topic: "Limiting your Liability"
- Speaker: Chad Coleman & Jeffery Lanterman from Coleman, Chavez & Allen
- Info: 6/17/09, 11:45am - 1:30pm Sportsman of Stanislaus
- Rates: Student \$12 Member \$18, Non-member \$25



## WEBSITE JOB POSTINGS

The website is now posting jobs for free for all CVHRMA members. For non-members, the price is \$30 for a 30 – day posting. The website has a feature that allows a CVHRMA member and/or company representative to email their jobs for posting.



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those criteria, along with the decision-making process that led to the criteria selection as well as the implementation. Employers must be able to prove the rationale for what they did lest they be accused of acting pretextually.

The moral: Don't let the continuing economic climate affect the care with which you conduct layoffs; stay diligent and careful, and document, document, document.

By:

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## Looking for a Job?

CVHRMA lists HR related jobs every month on our website. Click on the link below to check them out!

[www.cvhrma.org/latestjob.html](http://www.cvhrma.org/latestjob.html)

## Post your Resume

CVHRMA lists Human Resource Professionals that are looking for a career in Human Resources. Resumes are updated every month on our website. Click on the link below to check them out!

<http://www.cvhrma.org/postresume.html>

## Unique job interviews

Job Interview Quotations (continued)

Vice Presidents and personnel directors of the one hundred largest corporations were asked to describe their most unusual experience interviewing prospective employees.

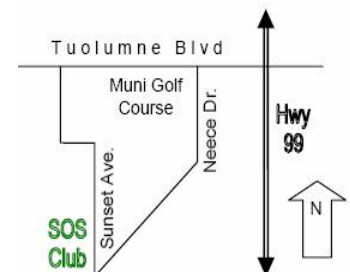
- "I know this is off the subject, but will you marry me?"
- "Will the company move my rock collection from California to Maryland?"
- "Will the company pay to relocate my horse?"
- "Does your health insurance cover pets?"
- "Would it be a problem if I'm angry most of the time?"
- "Does your company have a policy regarding concealed weapons?"
- "Do you think the company would be willing to lower my pay?"
- "Why am I here?"
- "Also included are a number of unusual statement made by candidates during the interview process."
- "I have no difficulty in starting or holding my bowel movement."
- "At times I have the strong urge to do something harmful or shocking."
- "I feel uneasy indoors."
- "Sometimes I feel like smashing things."

*More comments continued next month*

## PHR/SPHR Study Sessions

CVHRMA is currently holding PHR/SPHR study Sessions. Please contact any of the Board Members with questions

[Directions to the SOS Club](#)  
819 Sunset Ave  
Modesto, Ca



California  
State Council of SHRM