

Employment Law Issues Checklist in Mergers & Acquisitions

Material Issues

- Wage and Hour Policy + Compliance
- Worker Misclassification
- Class Action Litigations/ Arbitration Agreements
- Governmental Audits + Investigations
- Restrictive Covenants, Confidential Information + IP matters
- Key Employee Agreements
- Immigration Compliance
- Workplace Safety Exposure
- Severance + RIF obligations (WARN Act(s))
- Benefits + Labor matters
- Credible Complaints against Key Employees
- Litigation History, Informal Complaints
- Compensation Incentive Arrangements
- Personnel Management Audit
- Recordkeeping Audit
- Certain Policy Compliance (*i.e.* Background Checks, Leave Policies)
- Pay Equity

Documents/Information to Review:

- Review of Personnel Materials, Complaints + Investigative Files
- Litigation/Administrative Charge(s) Details
- Employee Surveys
- Demographic Data
- Hiring, Turnover + Promotion Data
- Policy + Prerequisite Analysis + Benchmarking
- Social Media
- Work/Social Environment
- Corporate Activities
- Organizational charts
- Policies
- Formal Proceedings (Litigation(s), Audit(s), Investigation(s), or Enforcement Actions)
- Informal Proceedings (Internal grievances/complaints or demand letters)
- Contracts + Agreements
- Employee Census Materials:
 - Wage Summaries, Hours + Title History
 - Extended Demographics
- Time Records
- Payroll Documents
- Filings (OSHA Logs, Forms I-9)
- Personnel Records
- Job Descriptions
- Compensation Plans Other Descriptive/Narrative Requests (Timekeeping Practices Processes, Descriptions of Work)
- Self-Audits
- Opinion Letters and Other Privileged Documents
- Benefit Plans and Summaries
- Incident Logs
- Insurance Policies
- Interviews with Employment Counsel, Human Resources Professionals, Management, Institutional/Historical Knowledge (Prior Practices)
- Review laws and regulations for each new state, city, and local ordinance you are entering via the acquisition

Determinations for Post-Acquisition Integration

- Who is the employer
- Whether there is a termination of employment for Seller's employees
- What agreements will be assigned over
- Who should be a part of Communication Team(s)
- What will happen on Day One
- Whether Seller employees will be re-hired and if so, what restrictive covenants they will be subjected to
- Whether retention agreements are needed (*i.e.* executive agreements, bonus plans, transaction bonus agreements)
- Immigration compliance needs
- RIF analysis
- Vacation/PTO/Sick Policy Continuation or Integration
- Benefits Plan(s) Continuation or Integration
- Reorganization (Non-RIF)
- Harmonize Job Titles + Duties
- Communications Plan
- New Employee Handbook - every employee should acknowledge
 - PTO - accrued vs. unaccrued
 - FMLA - Calendar



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