

# October Layoffs Hit 22-Year High: Legal Considerations for Employers

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October 2025 may very well be remembered as a turning point in the U.S. labor market. According to Challenger, Gray & Christmas, employers announced approximately 153,000 job cuts last month, marking the highest October total since 2003 and the largest single-month wave of layoffs in the fourth quarter since 2008. That represents a 175% increase from October 2024 and a staggering 183% jump from September. Year-to-date, layoffs have surpassed 1.09 million, up 65% from last year, making 2025 the worst year for job cuts since the pandemic era of 2020. With mass layoffs in sharp focus, there are a variety of employment law issues for employers to navigate.

## Why Are Layoffs Surging?

Several factors are converging to create this historic spike. Companies are aggressively reducing expenses amid softening consumer demand and rising operational costs. Cost-cutting was cited as the top reason for October layoffs, accounting for over 50,000 job cuts. In addition, artificial intelligence (AI) is continuing to reshape the workforce. Employers attributed approximately 31,000 layoffs to AI-related restructuring in October alone, contributing to more than 48,000 cuts this year. Perhaps not surprisingly, the technology sector was hit the hardest, with approximately 33,000 job cuts in October, and approximately 141,000 in 2025 (an increase of 17% from the same period in 2024).

## Legal Considerations for Employers

As employers are planning for and implementing mass restructurings, there are several employment law issues worth mentioning:

The WARN Act: The federal WARN Act requires employers with 100 or more full-time employees to provide at least 60 days' written notice before a mass layoff or plant closing. Along with the federal WARN Act, employers are required to comply with state "mini-WARN" Acts, which may have stricter requirements that impact notice periods, thresholds, or severance pay (such as New York, New Jersey, California). Effective March 2025, New York became the first state to require employers to disclose if layoffs are related to AI. With this change, the New York State Department of Labor asks employers whether the job losses are related to technological innovation or automation, and if so, to provide a brief explanation. As such, it is critical when planning a mass layoff to consider whether the federal and/or state WARN Acts apply.

The Older Workers Benefit Protection Act (OWBPA): The OWBPA sets forth additional requirements in order to obtain a waiver of a claim under the Age Discrimination in Employment Act (ADEA), which severance agreements typically do. Employees over the age of 40 who are impacted by the restructuring are entitled to at least 45 days to consider the severance agreement, and 7 days to

revoke their acceptance of the agreement. On top of this, employers are required to disclose the ages and job titles of those impacted (and not impacted) by the layoff, along with the selection criteria. This is in addition to any state-specific requirements that may apply.

Final Pay Requirements: Employers must determine when compensation is due for terminated employees. This varies by state law and employers can be subject to significant penalties and find themselves vulnerable to wage-related lawsuits for non-compliance. For example, in California, employers may face penalties under Cal. Lab. Code § 203 for the willful failure to pay wages due to an employee upon termination. An employee may also file a wage claim or civil action to enforce Section 203. Cal. Lab. Code § 218. It is important for employers to diligently manage payroll to ensure employees receive timely payment of wages.

Litigation Risk: Mass layoffs can often lead to disparate impact and disparate treatment claims under federal and state anti-discrimination statutes to the extent they disproportionately affect a protected class. Employers are encouraged to seek counsel to ensure that the layoff criteria, and the termination decisions, are objective, consistent, and non-discriminatory. Depending on the size of the restructuring, employers may consider conducting an adverse impact analysis to evaluate whether protected classes are disproportionately affected. Additionally, layoffs can bring challenges to employee morale. During this time of heightened sensitivity, it is important for employers to have a strong communication plan to ensure that the layoffs are managed to reduce litigation risk as best as possible.

## **Conclusion**

Restructurings are becoming increasingly challenging as the legal and regulatory landscape evolves in complexity. Planning is key, and it's critical for employers to manage employee layoffs to avoid significant financial, business and reputational risk.

If you have any questions regarding this blog or company restructurings, please contact a member of our Kelley Drye Labor and Employment team.