



Key legal tools and knowledge to minimize cost and maximize workplace integrity during a reorganization:

- I. Working Notice
- II. Contracting Out
- III. Position Reorganization
- IV. Timely Planning, Action and Communication

Overview

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Working Notice

What is it?

- Written advance notice of conclusion of employment without just cause
- Must be clear / certain end date
- **Replaces severance payment / liability**
- Same amount (i.e. "months") as severance payment period would be

Why Seldom Used?

- Have to continue to work with the employee during notice period
- Work quality
- Risk of organization or workplace morale damage

Advantages

- **Zero Cost!**
- Can be dignified and respectful departure during reorganization

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Contracting Out

What is it?

HR Consequences

Obstacles

- Eliminating in house jobs / tasks and retaining outside private contractor
- Employee Layoff = Severance / Notice Liability
- Less control over private contractor
- Some union collective agreements prohibit or restrict contracting out
- All union employers must demonstrate good faith business rationale

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Position Reorganization Can Trigger Constructive Dismissal

What is it?

Clear examples

Grey area risk

- Fundamental change to terms and conditions of employment
- Demotion
- Salary/wage reduction
- Significant job description change
- Significant reporting structure or org chart change
- Forced location change
- Hostile workplace

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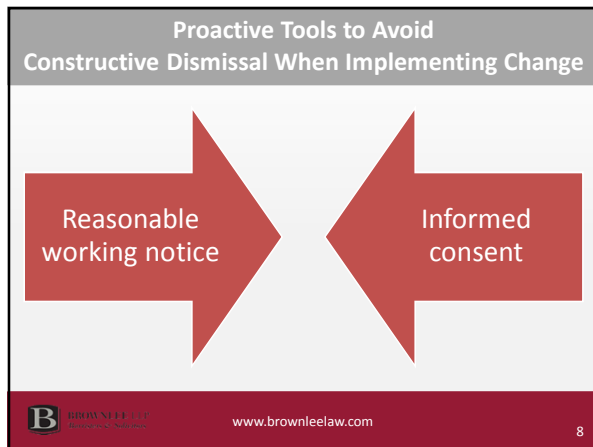
Consequences of Constructive Dismissal

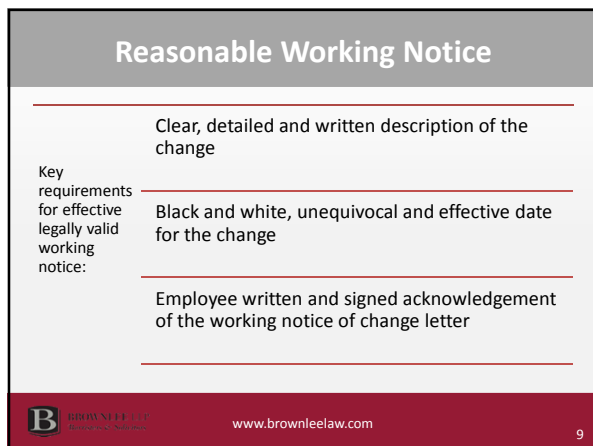
<p>If the employee does not object, resign and sue, no liability or legal issue is triggered</p>	<p>Thousands of employees are constructively dismissed each day, often without the employer or employee even recognizing these potential issues or risks</p>
<p>Employee option to resign and sue as if wrongfully dismissed</p>	
<p>The employee would have to elect to resign without too much delay to trigger and claim for this liability</p>	<p>Liability for severance the same as if the Employee was terminated without cause</p>

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Informed Consent


- Informed, voluntary consent cures all
- Key elements for valid consent defence:

Clear, detailed and written communication of the requested change

Adequate time for the employee to fairly consider

Signed written acknowledgement from the employee agreeing to the changes and

The opportunity to seek independent legal advice if they wish



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Key HR Reorganization Tools

Working Notice

Contracting Out

Position Reorganization


Timely Planning, Communication and Action



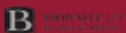
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Questions?



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