

**2.23 DISCRIMINATORY LAYOFF OR REDUCTION IN FORCE (RIF) (Approved 5/91)**

Plaintiff has contended that the layoff or reduction in force at [employer's name] was conducted in a discriminatory manner. In order to establish an initial case that a layoff was discriminatory, a plaintiff must show that:

1. He/She is a member of a protected class; and
2. He/She was laid off while other not in the protected class were treated favorably.<sup>1</sup>

It is plaintiff's burden to prove both of these elements by a preponderance of the evidence.

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<sup>1</sup>*Massarsky v. General Motors Corp.*, 706 F. 2d 111 (3d Cir.), cert. den., 464 U.S. 937 (1983).