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Competitor Lift-Outs: Protecting Your Firm in Pursuing and Avoiding Litigation for Employee Raiding

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When a competitor hires multiple employees from your business or, worse, persuades an entire team or business unit to defect to a competitor, the resulting harm may be severe. Along with substantial lost revenues and profits, the consequences can include the risk of additional employee defections, decreased morale, reputational harm and the loss of key clients, trade secrets and confidential information. Successful competitor lift-outs may even, in extreme cases, threaten the target firm's viability. Financial services and technology firms, among others, frequently face the threat of this kind of lift-out by a competitor, often referred to as employee raiding, pirating or poaching. In this evolving area of law, what strategies can firms use to protect themselves from an employee lift-out by a rival firm? How can firms best position themselves for litigation if a competitor engages in employee raiding? In this article, SRZ litigation partner Harry S. Davis and former SRZ lawyer Christopher H. Giampapa answer these questions as well as discuss how a firm that intends to hire a number of employees from a competitor can protect itself.

This article also appeared in *Bloomberg BNA – Daily Labor Report* and *Bloomberg BNA – Daily Report for Executives*.

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