

yourHRdepartment, Inc.

EPL Facts & Findings

Layoffs Lead to Costly Lawsuits!

The economy is bad ... **real** bad. Unemployment in August and September of 2008 was the highest it has been in over 5 years. Many employers are laying off employees in response to a legitimate business slow down. They have no worries about being sued, right? Wrong! The employees selected for layoffs, and the methodology used for the selections will predict whether the employer is at risk to be sued. Employers implementing layoffs are being sued by former employees for discrimination, retaliation, and wrongful termination based upon protected classes such as race, age, sex, disability, etc. The state court statistics below¹ tell the story . . . you can see these lawsuits are costly.

<u>Type of Case</u>	<u>Jury Verdict Median</u>	<u>Average Settlement Value</u>
Age	\$381,000	\$155,728
Disability	\$276,711	\$104,058
Race	\$232,184	\$139,303
Sex	\$227,000	\$141,710
Other (Discrimination)	\$326,150	Not reported
Retaliation	\$196,000	\$218,270

The plaintiff/employee wins 70% of all sex discrimination cases filed in state courts, and 66% of employment cases overall. 74% of all awards in age discrimination cases exceeded \$100,000, as did 69% of all sex discrimination awards.

Who are we?

yourHRdepartment, Inc. is an expert team of HR professionals that provide quality comprehensive loss prevention services to the EPLI industry. Our distinguishing features include an online HR management system that offers state-specific information for all 50 states, plus unlimited telephone support provided by experienced HR professionals. In addition, our services include a dedicated customer service staff who ensure clients are made aware of the valuable HR tools included with their EPLI policy.

¹Source: Jury Verdicts Research, *Employment Practice Liability: Jury Award Trends & Statistics*, 2008 Edition.

Wrongful Termination/Discrimination Cases:

(\$2,100,000) Age

An employer paid \$2.1 million to settle an age discrimination suit brought by the EEOC on behalf of employees over 40 years old who were allegedly targeted for layoffs while younger employees were retained.

(\$125,000) Sex/Race

An employer has paid \$125,000 to settle a sex and race discrimination suit brought by the EEOC on behalf of an employee who was selected for layoff in a reduction in force. The lawsuit alleged that the employee was targeted because she was pregnant and African-American, and that the employer retaliated against her for filing an EEOC charge by declaring her ineligible for severance benefits.

(\$773,000) Age

An employer will pay \$773,000 to settle an age discrimination case brought by the EEOC on behalf of several employees who were 47 to 65 years old when they were terminated in a reduction in force.

(\$1,135,000) Sex

A state court jury awarded \$1.135 million to four employees in a sex discrimination lawsuit resulting from a reduction in force. The employees alleged that they were selected for the RIF because they were women, while similarly situated male employees were retained.

(\$272,500) Race/National Origin

A federal jury awarded a Mexican-American employee \$272,500 in a race and national origin discrimination suit against an employer that had terminated him in a reduction in force. Although the employer claimed that employees were selected for the RIF based on six measures of performance, the employee was able to show that the employer retained Caucasian employees who had attendance problems, and had records of sleeping and drinking on the job. The employee also presented evidence that managers had made derogatory remarks about Mexicans shortly before the RIF took place.

The size of these awards are on the rise. The basis for economic damages for termination/discrimination is lost wages. The longer a terminated employee remains unemployed, the higher the risk of claims and amount of potential damages.