

Vicencia & Buckley

Employment Practices Newsletter

Second Quarter 2010

Issue 3

Employment Practice Liability Claims continue to rise and employers are urged to review their employment practices and policies along with their employee handbook. Moreover, employers should consider transferring this risk to an insurance company by purchasing Employment Practices Liability (EPL) insurance.

Consider These Cases

A contractor hired a general laborer and on the first day of his employment, he refused to do cleanup work and told his supervisor he was not a janitor. He was terminated and he filed an EEOC claim for racial discrimination. The EEOC claim was dismissed and the employee filed a civil suit. The court eventually dismissed the suit, but the cost of defense for the employer was over \$35,000.

A firm was sued by a clerical employee for failure to pay overtime. The employer believed the employee was paid a salary and thus exempt from overtime. After advice from counsel they settled for \$89,000 plus the cost of defense.

An automobile dealer terminated a service manager who filed a lawsuit alleging retaliation. The service manager stated that he had been required to return out of warranty worn out parts to the manufacturer, but to tell them that the parts were worn out during the warranty period. The employer settled the case for a five figure amount.

Alarming Trends

- In 2009, more than 93,000 workplace discrimination charges were filed with the EEOC. This is the second highest level ever recorded.
- In the private sector, job bias cases alleging discrimination based on disability, religion and /or national origin hit record highs, with the number of age discrimination charges reaching new heights.
- A growing number of sexual harassment claims have come from men since the start of the recession in the fourth quarter of 2007.

- Wage and hour lawsuits have surpassed employee discrimination suits, according to a new report from Advisen Ltd.
- 81% of claims settle for an average of \$22,400 to \$40,500 plus defense costs.

Reducing the Risk

- Purchase Employment Practice Liability Insurance. The market for this coverage is much more affordable.
- Review and update your employee handbook. We can help with this.
- Conduct an analysis of your employment practices.
- Utilize legal counsel when implementing employment practices, disciplining an employee or terminating an employee.
- Contact us for a no obligation evaluation. 714-739-3177 or commercial@vicencia.com