

Labor Law Release

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Avoiding Costly Litigation

When a party loses in litigation, they can be required to pay fees to opposing counsel, the plaintiff could be awarded damages that include back and front pay, and there is the big amount - punitive damages. The Bureau of Justice Statistics conducted a study in punitive damages, the outcomes were eye opening. The median employment discrimination punitive damage award was \$650,000; the maximum reported award was \$3.5 million. In **Fresno County** the median punitive award was reported as being \$48,000, which may not sound like that much, but when you add that amount to the others due, it can become an atrocious amount of money.

The jury has your company's fate in its hands and the odds of winning a judgment in your favor can be unpredictable. You just never know what can happen. It's just not worth taking the risk.

Claims for harassment, discrimination, and other employment law violations are a weekly occurrence in our society. The number of claims filed has more than doubled within the past 10 years, there are increases in sight. An example of such a claim was filed right here in Fresno. Recently, the California Court of Appeals, 5th District made its ruling on *Helmer vs. Bingham Toyota Isuzu* regarding an employment issue that arose in 1999.

According to Mr. Helmer, during the initial interview, the hiring manager at Bingham promised him \$5,700 per month in wages. After leaving his job with another local auto dealer, Helmer went to work with Bingham under the implied contract for the specified amount. During his employment Mr. Helmer noticed that he was not being paid the full \$5,700 and went to the hiring manager several times to questioned the amount. Two days after Mr.

Helmer's last contact with the hiring manager and controller of the company his employment was terminated. Mr. Helmer then went on to sue Bingham Toyota for intentional misrepresentation, promissory fraud, and negligent misrepresentation - and won!

The Bingham Toyota case reminded us here at FLGZ about the now high frequency of these types of cases that are coming into our Court systems here in Fresno, as well as all over the country. We don't want you to be caught in the same situation.

How can you prevent these issues from arising at your company? Provide consistent, realistic, and effective training that arm your managers and employees with the knowledge to prevent those claims from ever becoming an issue; by giving employees ways to express their ideas and frustrations without the fear of repercussions; by ensuring that your company values are instilled in every manager, every employee and in everyday activities; and by not allowing cost to interfere with training.

The effect of our harassment, discrimination and other employment violation filled society has led employees not to care about the aftermath of a lawsuit. By showing that you are honestly looking out for their best interests, as well as your own, your employees will see that you care what happens to them and in the long run they will care what happens to you as a company - which can save you money.

Sources: W. Kirk Turner & Christopher S. Trutchley, PHR, and the Department of Justice Statistics.

This is not intended as a complete analysis of the subject matter, or legal advice on any specific matter. Contact us if you have specific questions or need further assistance.