

DAMAGES IN AN EMPLOYMENT DISCRIMINATION LAWSUIT IN FLORIDA

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Richard Celler



In the United States, various federal and state laws make certain types of employment discrimination illegal. Despite this, discrimination in the workplace continues to occur. Illegal employment discrimination takes many forms such as being turned down for a position because you are female, termination from a job because of your age, or harassment at work because of your national origin. Although these examples involve different fact scenarios they all have one thing in common – they violate federal anti-employment discrimination laws. If you are the victim of workplace discrimination you may have the right to take legal action in the form of a lawsuit against your employer. Only an experienced Florida employment law attorney can review the unique facts and circumstances of your case and provide you with specific advice; however, as a victim, you may benefit

from a basic understanding of the types of damages you may be entitled to if your lawsuit is successful.

WHEN IS DISCRIMINATION ILLEGAL IN THE WORKPLACE?

Contrary to what many people believe, not all discriminatory conduct is illegal in the workplace. For a victim of employment discrimination to be entitled to sue an employer the conduct at issue must specifically be illegal under either state or federal law. Numerous state and federal laws cover employment discrimination. Collectively, they make it illegal to discriminate on the basis of:

- Age
- Disability
- Genetic information
- National origin
- Pregnancy
- Race/color
- Sex
- Religion

In addition, harassment, both sexual and otherwise, is illegal in the workplace when:

1. Enduring the offensive conduct becomes a condition of continued employment, OR
2. The conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive.

MONETARY DAMAGES IN AN EMPLOYMENT DISCRIMINATION CASE

The financial impact of employment discrimination is often devastating to the victim and the victim's family. Fortunately, the law often allows a victim to recover monetary damages in a successful employment discrimination case. The type(s) of monetary damages you may be entitled to will depend on the relevant statute or law, but may include:

- **Back pay** –back pay covers wages, salary, tips, commission, and other forms of income that were lost by the victim as a result of the discrimination.
- **Front pay** – front pay is intended to compensate a victim for future lost income when reinstatement to his or her former position is not possible.
- **Compensatory damages** –compensatory damages compensate a victim for out of pocket expenses incurred as a direct result of the discrimination. Costs associated with searching for a new job, updating job skills, or medical expenses incurred because of the discrimination are included in a compensatory damages award. In addition, the emotional impact (pain and suffering) of the discrimination is covered in a compensatory damages award.
- **Punitive damages** – if the employer's conduct was particularly egregious or malicious, punitive damages may be awarded. Unlike compensatory damages which are intended to cover actual expenses incurred by the victim, punitive damages are intended to punish the defendant.

Liquidated damages –in certain types of discrimination cases, such as intentional age discrimination and intentional sex-based wage discrimination under the Equal Pay Act, compensatory and punitive damages are not available;

however, liquidated damages are awarded in an amount equal to the back pay awarded to a victim.

OTHER TYPES OF DAMAGES – INJUNCTIVE AND AFFIRMATIVE REEF

While a monetary award is certainly justified when a victim suffers financial hardship as a result of discrimination, a monetary award does nothing to prevent future discrimination nor does it give a victim back a lost job or promotion. To remedy this, the law may also allow for injunctive and/or affirmative relief.

- **Injunctions** – a court may issue an injunction, which is a legal order prohibiting the employer from engaging in certain types of conduct in the future.
- **Make-whole remedies** –this type of relief is intended to put a victim in the same place he or she would be in had the discrimination not occurred.

Specifically, remedies may include:

- Hiring
- Transfer
- Promotion
- Reinstatement
- Retroactive seniority
- Tenure
- Restoration of benefits
- Salary adjustment
- Expunging adverse material from personnel files
- Letters of commendation
- Reasonable accommodation

HOW IS A DAMAGE AWARD DETERMINED?

The type and amount of damages you receive in an employment discrimination lawsuit will depend on several factors, including:

- Whether state or federal law applies – The Florida Civil Rights Act, for example, may offer additional compensation above and beyond what the applicable federal statute allows a victim to recover.
- Which specific law applies
- The size of your employer (damage caps often apply based on the size of the employer)
- Whether the conduct was malicious
- The amount of actual out of pocket expenses you incurred
- The employer's history of discrimination or lack thereof

Most workplace discrimination lawsuits are settled out of court through a negotiated settlement. If, however, an out of court settlement is not forthcoming



your case will proceed to trial and your award, assuming success, will be determined after trial.

If you believe you are the victim of employment discrimination in the State of Florida it is imperative that

you consult with an experienced Florida employment law attorney as soon as

possible to ensure that your rights in the workplace are protected. Your employment law attorney can evaluate your situation and advise you if you have the basis for a discrimination lawsuit.

American Bar Association, [Types of Damages Available in Employment Cases](#)

U.S. Equal Employment Opportunity Commission, [Remedies for Employment Discrimination](#)

Florida Bar, [Classification and Valuation of Damages under Title VII](#)

About the Author



Richard Celler

Richard Celler is the Managing Partner of Richard Celler Legal, P.A., a/k/a the Florida Overtime Lawyer. He created this firm after having served as the Founding Member and Managing Partner of one of the largest employee/plaintiff side employment law divisions in the United States.

In November 2013, Mr. Celler left big firm life with the idea of reopening his own litigation firm with an emphasis on something most big firms cannot provide – a lower volume of cases, and more focus on the needs and attention of every single client.

Mr. Celler's practice focuses on all areas of the employment context from discrimination, harassment, and retaliation under the Florida Civil Rights Act, Title VII, the Family Medical Leave Act, and other employment related statutes. Additionally, Mr. Celler represents individuals in whistleblower and wage and hour litigation (overtime, minimum wage, commissions, final paychecks).

Many firms charge clients for an initial consultation to discuss their claims. Mr. Celler does not. You can call him or email him to discuss your case for free. If he elects to represent you, your case will be handled on a contingency basis, which means that he only gets paid, if you get paid. We encourage you to look at the remainder of our website for information on your rights and benefits in the workplace – www.floridaovertimelawyer.com.

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