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Employment Issues

Employment Issues



Identifying employment patterns and trends can be subtle business. Sophisticated statistical analysis is a virtual necessity in litigation over employment issues. Not only do we have the tools to get it right--the theoretical expertise, the statistical and econometric skills, familiarity with the ins and outs of employer record keeping, and the knowledge of (and access to) publicly available benchmark data--we are experts in all of these areas. And, perhaps most importantly, we know how to explain it all so that the statistical results ring true.

Econ One consultants have experience in a long list of employment issues and topics including:

- Class Certification
- Damages
- Discrimination--Racial, Gender, Age
- EEOC/OFCCP Compliance
- Hiring, Termination, Promotion Analysis
- Impact of Reduction in Force Actions
- Racial Profiling
- Wage & Hour Issues

We know the difference between theory and practice. In fact, we're experts in both. We know how to combine theory with real world experience in using sophisticated economic and statistical tools. And best of all, our work is designed at every turn to be clear and accurate. We make the complex understandable for our clients. It's no wonder they come back to us again and again.



Employment Issues: Selected Experience



Thompson, et al., v. Northrop Grumman Ship Systems, Inc. This case began as a class action but was denied class certification, resulting in a group of 79 African American plaintiffs who are current or retired employees of the Northrop Grumman Ship Systems (NGSS) shipyard in Pascagoula, Mississippi (a.k.a., the Ingalls Shipyard). This shipyard builds ships for the U.S. Navy and U.S. Coast Guard, and is the largest employer on the Gulf Coast. The 79 plaintiffs are now individually suing NGSS alleging systemic patterns of racially-biased personnel decisions, including pay and promotion opportunities, as well as a hostile work environment.

Econ One was retained by The Legal Aid Society – Employment Law Center, co-counsel for the plaintiffs, to provide expert analysis regarding liability and back pay damages. Dr. Louis Lanier analyzed 14 years of personnel data from the shipyard, to uncover whether there were racially-biased patterns of employment outcomes. Dr. Lanier submitted two expert reports addressing liability. He has been deposed and provided testimony as to the existence of statistically-significant racial patterns in both pay and promotion outcomes to the disadvantage of African American employees. Dr. Lanier also has submitted several expert reports and provided testimony regarding back pay damages for individual plaintiff claims.

Gonzalez, et al., v. State of Arizona, et al. Proposition 200, an Arizona state initiative passed in November 2004 as a way to prevent non-citizens from voting, requires (1) individuals to produce proof of citizenship before they may register to vote and (2) that all voters must show identification before they are allowed to vote at the polls. The Mexican American Legal Defense and Educational Fund filed a lawsuit on behalf of numerous individuals and organizations alleging that this proposition contains restrictions that impede U.S. citizens seeking to vote.

Econ One was retained by the plaintiffs' counsel to provide statistical analyses of the Arizona voter polls, rejected voter registration applications, and uncounted ballots. Based on the analyses he conducted, Louis Lanier testified at trial that Proposition 200 has resulted in the rejection of over 38,000 voter registration forms and thousands of ballots since its implementation in early 2005. Dr. Lanier also opined that the law has disproportionately affected the population of naturalized Hispanic citizens who are of voting age in Arizona. A ruling in the case is expected by the end of the year.



EMPLOYMENT ISSUES (CONTINUED)

Craft, et al. v. San Bernardino County Sheriff's Department. The plaintiffs in this case were a group of inmates at San Bernardino County's detention facilities who contested that certain individuals were denied their fourth amendment rights while in custody, in that full body cavity searches conducted by the Sheriff's Department were: a) in group settings; b) on individuals who had not yet been arraigned and had no drug, weapon, or violence charges; and c) on individuals who already had been ordered released. Brian Kriegler was retained by counsel for the plaintiffs to identify which individuals fit into each of these categories. Using the San Bernardino County Sheriff's Department's database, Dr. Kriegler and his staff used statistical and computational programs to evaluate nearly 400,000 bookings, concluding that there were approximately 160,000 individuals and 337,000 bookings qualifying for class membership. This case settled for \$25.5 million in 2008.

Fairfield v. Advantage Rent-A-Car. In this wage and hour class action, the plaintiffs were a group of Advantage Rent-A-Car hourly employees who contested that they were not correctly compensated for overtime and missed meal breaks. Brian Kriegler was retained by counsel for the plaintiffs to determine the class size. He recommended a sampling procedure for examining employees' punch card and pay stub records so that the class size (number of people and number of hours) could be estimated. Using probabilistic and statistical analyses, Dr. Kriegler estimated: a) the number of work periods that did not accurately reflect the actual number of hours worked; b) the number of work periods for which employees were not compensated appropriately according to State law; and c) the number of individuals in the class. He gave deposition testimony to support his sampling methodology and analytical results. This case settled for \$2.5 million in 2008.

Bynum v. District of Columbia. In this civil rights class action, the plaintiffs were a group of inmates at the District of Columbia's jail who claimed that: a) certain individuals were held past the date on which they were entitled to be released; and b) certain inmates were subjected to full body cavity searches after being court-ordered released. Brian Kriegler was retained by counsel for the plaintiffs to analyze the District of Columbia's jail and court databases, and to estimate the number of unlawful strip searches and over detainees, as well as the lengths of over detention. Dr. Kriegler's research, which included the use of statistical programming and cross-referencing multiple databases, uncovered that there were approximately 25,000 individuals over detained and/or searched post release. This case settled for approximately \$12 million in 2006.

Roby v. McKesson, et al. Charles Mahla provided an analysis of the plaintiff's damages resulting from a wrongful termination by this large, diverse pharmaceutical distributor. Dr. Mahla's analysis encompassed not only the plaintiff's lost worklife earnings, but also the impact on her retirement earnings. In addition, Dr. Mahla provided insight into the defendant's financial structure and health to aid the court in determining punitive damages. The jury awarded the plaintiff approximately \$19 million in compensatory and punitive damages.

Mayer v. Computer Sciences Corp. Charles Mahla was retained to provide an estimate of plaintiff's losses from the sexual harassment and wrongful termination by this large technology consulting company. Dr. Mahla's analysis involved the estimation of the plaintiff's "but-for" earnings as an entrepreneur, as she owned her own consultancy prior to being recruited by the defendant. Despite the claim by the defendant that the plaintiff's losses were small based on a claim that her "but-for" income was essentially non-existent, the jury awarded the plaintiff damages consistent with Dr. Mahla's estimated losses.



EMPLOYMENT ISSUES (CONTINUED)

Smooth v. Del Paso Heights School District. Charles Mahla provided analysis and testimony for the defendant in a race/age/sex discrimination suit brought by a teacher who had been removed from an assistant superintendent position by the school board. Dr. Mahla demonstrated that the plaintiff's claimed damages were overstated through a careful analysis of a merger between the defendant and another school district, showing that the plaintiff's position was likely to disappear independent of any actions of the defendant. In addition, Dr. Mahla demonstrated that the plaintiff's alleged retirement losses were overstated due to a faulty application of the CalStirs retirement formula by the plaintiff's expert.



About Econ One



Econ One provides economic research and consulting on issues relating to markets, competition, regulation, and valuation. We offer in-house expertise in applied economic theory, econometrics, statistics, market strategies, large-scale project management, electronic data manipulation, and graphics.

Our focus is in providing high-value service to our clients. This means:

- Solutions that are well-conceived, meaningful, and well-presented
- Research that is accurate and thorough
- Analytical approaches solidly grounded in the state-of-the-art economic methods
- Project management that insures efficient use of resources and no unnecessary costs
- Experienced project teams that minimize learning time and false starts

Our experience includes:

- Antitrust & Competition
- Contract Disputes
- Damages
- Employment Discrimination
- Intellectual Property
- Market and Regulatory Design
- Mergers & Acquisitions

Our strength is our staff--a diverse group of professionals combining an impressive set of academic credentials with years of experience in the arena of hands-on, practical economic research.

Econ One experts have testified in state and federal courts; administrative, legislative, and regulatory agencies; and in arbitrations and mediations.

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