

Avoiding Big Employment Jury Verdicts: What Employers Should Know

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A workplace decision that seems reasonable at the time can look very different when presented to a jury. Even when employers believe they have followed the law, the way employees are treated, how decisions are documented and how managers respond to workplace concerns can significantly influence the outcome of an employment dispute.

At Dorsey's 2026 Labor & Employment Symposium, Dorsey attorneys Melissa Raphan, Jillian Kornblatt, Ryan Mick, and Elena Modl joined Dr. Samantha D. Holmes, Partner at R&D Strategic Solutions, to discuss the rise of exceptionally large employment jury verdicts, how jurors evaluate workplace disputes and what employers can do to reduce their exposure.

The panel began with two recent cases illustrating how everyday employment decisions can lead to significant financial consequences. One involved a \$4.7 million verdict in a Massachusetts retaliation case following an employee's return from protected medical leave. The other involved a \$22.5 million wrongful death verdict arising from an employer's handling of a pregnant employee's request for a medical accommodation.

While the circumstances differed, both cases underscored the importance of understanding applicable state laws, responding carefully to accommodation requests and considering how workplace decisions may be viewed later in litigation.

Dr. Holmes then examined how jurors approach employment cases. Unlike disputes involving complex commercial transactions, employment cases often involve situations jurors can relate to through their own workplace experiences. Jurors bring expectations about how employers should treat employees, particularly when it comes to fairness, consistency, safety, and respect.

As the panel explained, having a legally sound defense does not necessarily mean jurors will view an employer's actions favorably. Employers also need to consider whether their decisions and conduct will make sense to people who were not involved in the underlying workplace situation.

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That consideration extends well beyond trial preparation. Ryan and Jillian discussed how employers can build a stronger foundation through consistent policies, meaningful training, clear documentation and careful workplace investigations. Managers should understand not only what the law requires, but also how their decisions and communications may be interpreted if a dispute arises.

The panel emphasized the importance of treating employee complaints seriously, even when an employee has raised concerns repeatedly. A prompt, impartial investigation can help employers address issues before they escalate. Similarly, performance documentation should focus on specific facts and objective expectations rather than general characterizations of an employee's attitude or behavior.

Respect also plays an important role. Ryan and Jillian shared lessons from a recent employment trial in which written disciplinary notices demonstrated that the employer valued the employee and wanted that individual to succeed. Those communications helped establish that the employer's actions were intended to address workplace conduct rather than punish the employee for raising concerns.

Ultimately, the panel encouraged employers to think about litigation risk as part of everyday workplace management, not simply something to address after a lawsuit is filed. Consistent policies, thoughtful decisions and respectful treatment of employees can help prevent disputes from reaching that point.

As the panel emphasized, the goal is not simply to win a jury trial. It is to avoid getting there in the first place.

This post highlights key takeaways from "Avoiding Big Employment Jury Verdicts: Psychology, Trends, and Practical Defense (and Pre-Defense!) Strategies," a panel presented at Dorsey's 2026 Labor & Employment Symposium.