



## CLAIMS SCENARIOS:

*Discrimination... doesn't get better with age.*

<i>Coverage</i>	<i>Employment Practices Liability</i>
Claim	Age discrimination
Company	Privately Held
Number of Employees	120
Annual Revenue	\$18 million

### **DESCRIPTION OF EVENT**

ABC International terminated a long-time manager for alienating employees and customers and disinterest in his job. The manager was 59 years old when the termination took place, and ABC checked off “other” instead of “poor performance” on the termination form as the reason for the termination.

The manager filed a charge of discrimination with the Equal Employment Opportunity Commission, alleging he was terminated because of his age. In his charge, he stated that he had always received regular merit pay increases, was replaced by a worker in his 30s, and that some members of senior management had made comments about needing “to get rid of the old guys.” The manager subsequently filed a lawsuit against the company seeking two years of lost wages and benefits, as well as compensation for emotional distress.

### **RESOLUTION**

Although ABC believed it was innocent of the allegations, the company determined that defending against the lawsuit would be costly. The case eventually settled out of court for \$250,000, while legal expenses totalled more than \$60,000

## CLAIMS SCENARIOS:

*Inappropriate jokes... the punchline is not funny.*

Coverage	Employment Practices Liability
Claim	Sexual Harassment
Company	Privately Held
Number of Employees	145
Annual Revenue	\$37 million

### DESCRIPTION OF EVENT

According to a female employee, a supervisor allegedly made abusive and sexually explicit comments to her and several co-workers. The supervisor also made sexual advances toward the employee, who rebuffed the advances. Shortly thereafter, the employee was terminated as part of a wider company reduction in force. The former employee later commenced legal proceedings against the company and two managers, alleging sexual harassment, intentional infliction of emotional distress, wrongful termination, retaliation, and sex discrimination. She sought \$275,000, plus reimbursement of legal fees.

The employer responded with a defence stating that the ex-employee's personnel file showed she had often been tardy for work, had conflicts with managers, and had patchy performance and that her termination was the result of a broad reduction in force. Records indicated she had been a problem employee, frequently talked about her sex life, and made vulgar comments at work. However, it also came to light that management had tolerated sexual jokes around the office but assumed no one was offended.

### RESOLUTION

The court ruled against the company, ordering it to pay the plaintiff \$100,000 plus her legal fees. In addition, the company accrued \$31,000 in defence costs.



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