

# Measuring the Real Costs of EEO and Workplace Claims

a Bashen Corporation White Paper

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When deciding to retain Bashen, other prospective clients calculate the salaries of human resources professionals, EEO compliance personnel, or front-line managers (“managers”) who investigate employee complaints. However, those clients also compute the benefits and the other employee liabilities (e.g. workers’ compensation, leaves of absence, separation, vacation or legal claims filed against the employer) for the managers who handle employee complaints. Measuring the actual costs for managers might also include company-wide expense factors such as payroll taxes, insurance, property expenses, equipment fees, office supply expenses, telephone and fax, training and education, computer services, repairs and maintenance, professional services fees, and other labor costs.

In addition to manager cost factors, Bashen’s prospective clients usually calculate where and how much money they are spending on employee complaints. This part of the cost benefit analysis is perhaps more important to some of our clients than the manager expenses. These metrics – usually calculated over a two-year period – typically include the following:

- The total cost per employee complaint for the **entire life cycle** of the claim. Some of our clients realize that far too many of their internal or external claims escalate to litigation, forcing the legal departments to incur unnecessary and exorbitant litigation expenses. Most of the litigated claims could have been terminated during the internal or external claims process. Consequently, these clients analyze the legal department’s **total** expenses to handle employee claims. After approximately 18 months with Bashen, one legal department began to realize a savings of more than \$700,000 annually. The in-house labor and employment counsel for this client directly attributed the savings to Bashen’s work and results.
- The total number/percentages of internal or external claims that have escalated to litigation.
- The total number of settlements, mediations or conciliations the employer effected during any part of the life cycle of the claim. The total amount the employer paid for the settlements, mediations or conciliations.



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- The number of verdicts against the employer and the payments made on each one, or the expenses incurred to appeal the verdicts.
- The total number of arbitrated EEO cases and the total payments made on each one.
- The total number/percentages of active claims versus dismissed claims. An active claim is a potential liability, even if dormant, and the statute of limitations continues to toll.
- The number of managers who handle workplace claims.
- The total hours HR personnel work on EEO claims, as opposed to other HR core competencies, such as employee retention, benefits, training and strategic planning.
- Has the total number of internal and external claims decreased **or** increased each year?
- Though it is hard to calculate in terms of lost revenue, the adverse affect that one catastrophic discrimination lawsuit can have on the public's perception about the company.

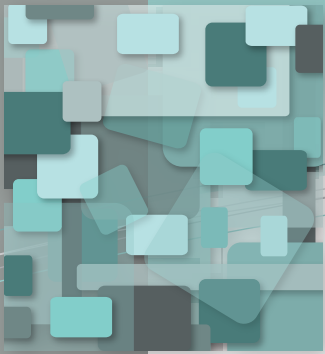
All of Bashen's clients, who have multi-year contracts with Bashen, have *substantially reduced* their costs over succeeding years because fewer claims are filed, more claims are dismissed or resolved early on (when indicated), and fewer cases escalate to litigation. When lawsuits are filed, in-house counsel is equipped with Bashen's reports, which are powerful information tools. These tools enable in-house counsel to control litigation counsel and defense expenses, or influence plaintiffs' counsel so that nominal settlements can be effected long before significant legal fees are incurred. Bashen delivers quantifiable, favorable results.

### **Miscellaneous Trends**

*Fulbright's 6th Annual Litigation Trends Survey Report* provides some enlightening information regarding employment cases, internal investigations, arbitrations, and litigation expenses:

- Companies have experienced increases in labor/employment lawsuits because of the economic downturn. Only bankruptcy/reorganization lawsuits increased more than labor/employment cases.





- Labor/employment cases top the list as the litigation area where companies plan to increase spending.
- Almost a quarter of companies with \$1 billion or more in revenues anticipate an increase in the number of internal investigations over the next 12 months.
- Half of the companies believe they have spent more time on regulatory investigative requests and enforcement matters over the past three years.
- One in seven of the largest companies expect an increase in the number of regulatory proceedings over the next 12 months.
- More than 50 percent of the largest companies estimate that the average cost to arbitrate a single-plaintiff case to conclusion is just under \$100,000. One in five of the largest companies place the average cost at about \$500,000. These figures **exclude** settlement monies paid to the plaintiffs.

- More than half of the companies with \$1 billion or more in revenues spend \$100,000 or **more** per employment case. This figure **excludes** settlement monies paid to the plaintiffs.

Bashen's services will help ensure that an employer is **not** part of the aforementioned trends. We want our clients to start a new trend that utilizes an innovative and efficient model that garners better results for appreciably less money. This is Bashen's 10-Point Guarantee.

### *About Bashen Corporation*

Bashen Corporation ("Bashen") provides employers with Equal Employment Opportunity ("EEO") Compliance Administration services, which include: investigations, patented case/document management and tracking software, training, affirmative action plans, diversity strategies, alternative dispute resolution, risk management and EEO and HR consulting services. Hundreds of clients, including Fortune 500 companies, non-profits, federal agencies, educational institutions, and insurance carriers, benefit from Bashen's experience. Bashen is a minority woman owned enterprise.

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