

Congratulations on winning that lawsuit! Don't count on collecting attorneys' fees

If employers lose an employment discrimination case, they end up paying the worker's legal bills in addition to back pay and other monetary awards. But what happens if the employer wins?

Don't count on the losing side paying up.

As a recent case shows, even if a worker's claims turn out to be frivolous, the court won't necessarily order reimbursement of the employer's legal fees.

Recent case: Shawn, who is gay, sued her former employer, Santa Barbara County, after she was laid off during a budget crisis related to the Great Recession. She alleged that what she perceived as anti-gay comments made years earlier by the county executive meant she had been terminated because of her sexual orientation.

The court dismissed her claims, ordering her to pay the county's legal fees. She appealed.

The Court of Appeals of California reversed the legal fee award. It reasoning that while Shawn had not shown any provable connection between comments made years earlier and her termination during a reduction in force, her claim was not entirely frivolous. The appeals court did not want to discourage other workers from bringing lawsuits for fear that they might have to pay their employer's legal fees if they lost. (*Terris v. County of Santa Barbara*, Court of Appeal of California, 2017)

Final note: Truly frivolous cases are typically dismissed very early in the litigation process. Workers who file multiple frivolous lawsuits may even be prohibited from filing again.