



## HOW I DO IT!

# EMPLOYEE CLAIM RISK MANAGEMENT

By **GREG SNELL**

Special to the Business Report

**A**ccording to the U.S. Department of Labor, charges of discrimination filed with the Equal Employment Opportunity Commission by employees across the nation have risen every year since 2005, reaching 99,947 in 2011. The increase in Florida employee charges is even more rapid, with 8,088 in 2011. Florida has 6 percent of the U.S. work force, but 8.1 percent of all charges, up from 7.8 percent in 2010 and 7.6 percent in 2009.

The most prevalent claims of discrimination nationally are retaliation (37 percent), race (35 percent), sex (29 percent), disability (26 percent) and age (24 percent). In Florida, retaliation (40 percent), race (32 percent), sex (30 percent), age (22 percent) and disability (21 percent). (Note: The percentages exceed 100 percent because individuals often make more than one claim of discrimination per charge.)

There are myriad other claims based on state and federal law which are not federal discrimination claims, such as wage and hour, whistleblower and worker's compensation.

These other claims are also on the rise. For example, claims under the Fair Labor Standards Act, which includes an attorney fee provision, have risen a staggering 35 percent in the last three years. Much has been said, and done, on tort reform. Maybe it's time for employment law reform.

The environment for employers is ever more treacherous. However, employers, you are not defenseless, you can avoid or contain employee claims by taking the following steps:

**1.** Educate all employees on employment law relevant to their position. The Department of Labor website, [dol.gov](http://dol.gov), has a lot of useful employment law information.

The Society for Human Resource Management, an organization for human resource professionals, has much to offer. The Society for Human Resource Management's website is [shrm.org](http://shrm.org). The group has an excellent local chapter.



**Snell**

**2.** Your employee handbook should address acceptable, and unacceptable, behavior, and include an effective process for reporting workplace problems. The process should allow an employee with a sexual harassment concern to bypass a supervisor who is the cause. Through the handbook and otherwise, employees need to be assured they can report a problem without fear of retaliation. After all, if you have a problem you need

to know.

**3.** Take employee complaints seriously and be sure they know it. Get the details and if warranted swiftly investigate further. When appropriate tell the employee how the complaint was or will be handled, even if in a non-specific way.

**4.** If professional help is needed get it from someone well qualified without delay. Regrettably employers often don't fully understand the implications of what they're dealing with and suffer irreversible adverse consequences as a result. Don't let it happen to you.

By staying informed, taking preventive measures, and responding properly when the need arises, employers can greatly reduce exposure to, and damage from, employee claims. ■

*Greg Snell is the managing attorney of Snell Legal, The Business Lawyers, in Ormond Beach. He provides representation to businesses on a wide range of issues, including employment law and litigation and can be reached at [gregsnell@snelllegal.com](mailto:gregsnell@snelllegal.com) or at 386-677-3232.*