Employment Liability & Risk Management

Derek Bryan, Executive Director
Washington Counties Risk Pool
360-292-4497
derek@wcrp.wa.gov
The Numbers
Frequency & Severity – Three Years
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Litigation vs. Claim
By Count

- Litigated Claims (177)
- Non-Litigated (1,728)
Litigation vs. Claim
By Cost

2017-18
2016-17
2015-16
2014-15
2013-14

Litigated ($26,989,521)
Non-Litigated ($17,267,133)
Let’s Talk About...

At-Will Employment

➢ What is it?
➢ What isn’t it?
➢ Can you terminate anyone you want?
Let’s Talk About…

Discrimination

- Can you name the protected classes?
- Remember federal, state and local.
- Can you terminate someone in a protected class?
- How do you manage performance?
Let’s Talk About...

Wrongful Termination

- What is it?
- What are some examples of it?
  - Retaliation, Discrimination, Contract Breach, etc.
- How do you win in court?
Let's Talk About...

The Cost of Employment Claims

- Back pay, future pay, benefits.
- No cap on damages.
- Fee Shifting.
Let’s Talk About...

Fee Shifting

- Verdict + Attorney Fees
- Title VII, FLSA, ADEA, FMLA, ADA
- How do you avoid them?
  1. Defense Verdict
  2. Offer of Judgment
Takeaways

Have a Personnel Policy
  Gives employees written notice
  Adds consistency
  Makes Management Easier

Conduct Performance Evaluations
  Gives Employees Feedback
  Provides Documentation
  Shows efforts to correct

Be Proactive
  Use Pre-Defense Program
  Consider Severance
  Sleep on it

Avoid litigation until you can do so no longer.
Questions & Discussion

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