



Damages in an Employment Discrimination Case

“Damages” means the amount of money that represents the loss or harm you suffered as a result of your injury. Damages are a dollar amount that represents the monetary value of the harm you suffered as a result of your employer’s discrimination against you.

FACTORS TO CONSIDER:

- What is the likely compensation (including pay and benefits) that the plaintiff would have earned if not for the discriminatory employment action?
- If you were terminated, what is the likely compensation (including pay and benefits) that you expected to earn from alternate employment?
- What expenses – medical insurance, for example – did you incur because of your termination?

Back pay – Back pay is the amount of money you did not receive as a result of the discriminatory employment actions.

- Back pay can also include the loss of a raise or other salary increases.
- Ordinarily the period for which a plaintiff may be awarded back pay is from the date of the discriminatory event to the date of the trial or entry of judgment.
- Lost fringe benefits, such as insurance, sick pay, unused vacation days. Generally, in regard to lost health care benefits, the plaintiff would have the burden of showing that he incurred out of pocket expenses as a result of the lost benefit.
- **MITIGATION** - earnings that a plaintiff receives after termination are **deducted** from back pay.
- A plaintiff has a **duty to mitigate his damages**. This means that the plaintiff has to at least be able to demonstrate that he sought employment comparable to the position s/he held with her previous employer.

Turn over for tips on calculating Front Pay.

This Tip Sheet is designed to provide information to pro se civil litigants in Colorado. It is not a substitute for legal advice from an experienced attorney. If you have any questions, please call the Federal Pro Se Clinic at (303) 380-8786.

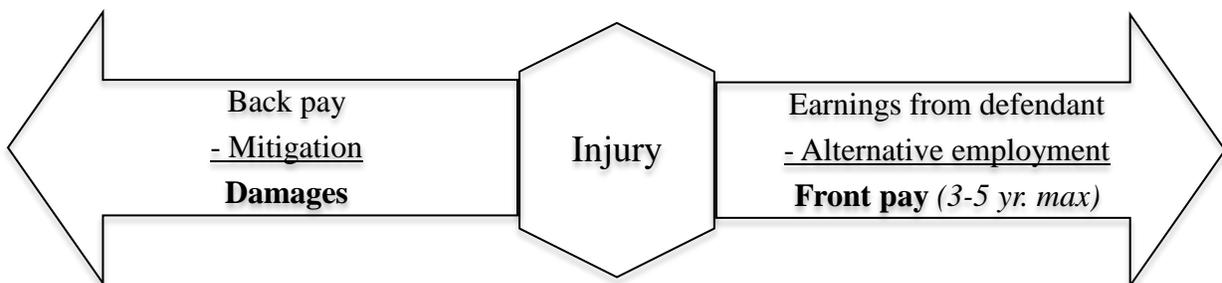
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Front pay – Front pay is the amount of money you would have expected to earn, if you had not suffered the adverse employment action. Calculating front pay requires anticipating economic losses to be experienced in the future.

- To calculate front pay:
 - (1) project the plaintiff’s likely earnings from the defendant (if there had not been the illegal actions) for the period he or she could reasonably be expected to have worked for the defendant.
 - (2) From that amount subtract the plaintiff’s projected earnings from alternative employment.
 - (3) Finally, reduce the resulting estimated future earnings to a present, lump sum value.
- Front pay awarded after trial is generally limited to about 3-5 years.
- Front pay is generally speculative, so this is a good figure to use for negotiation in a mediation.
- To rely upon objective criteria for your front pay basis, you can look at the Bureau of Labor’s statistics on work-life expectancy for a position.

BONUS TIP: You may seek damages for mental anguish, psychological pain, and suffering caused by your employer’s discrimination. BUT, if you seek compensation on this basis, you must be prepared to prove it by sharing your psychological/mental health records and history. If you want to keep these records private, you should not seek damages for mental anguish and suffering.

Damage Types



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