

Using ADR to Manage the Risks of Employment Claims

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Recent studies have underscored a built-in jury bias toward employers in employment lawsuits. This bias may explain the increasing risk of runaway jury verdicts both inside and outside Ohio, including a recent string of multi-million dollar verdicts against Ohio employers in single plaintiff discrimination cases in 2008 and 2009.

While a Cuyahoga County jury returning a 46 million dollar award in a single plaintiff retaliation lawsuit in 2008 has garnered substantial publicity, numerous other seven figure awards were awarded by juries in favor of discharged employees in Cuyahoga, Summit and other Ohio Counties over the past two years. In states like Ohio, this risk is exacerbated because employment laws enable plaintiffs to avoid federal court jurisdiction, even in lawsuits against out-of-state corporations. The risk of these kinds of jury verdicts, coupled with lengthy dispute cycles common to the civil justice system, can often result in skyrocketing costs.

To address the imbalance and inefficiencies in the state court system, we encourage our clients to consider adopting an Alternative Dispute Resolution (ADR) plan as part of their employment risk strategy. The success of this risk management strategy is reflected by the substantial resources the plaintiffs' bar and civil rights organizations are pouring into lobbying efforts aimed at rolling back ADR in the workplace. [Millisor](#) + [Nobil](#) has developed a proactive model ADR plan to assist our clients in implementing an effective ADR strategy. We have successfully enforced our two-step ADR plan, which begins with mediation followed by binding arbitration, on behalf of clients in numerous court actions both inside and outside of Ohio.

Under our ADR plan, an employer and employee submit their employment dispute to a professional decision maker, potentially minimizing the cost and delay inherent in traditional employment litigation and limiting the potential for a runaway jury verdict. Although no post-dispute strategy can avoid all costs and risks, our ADR plan has helped many clients cost-effectively address, resolve and, in many cases, avoid employment-related claims.



While ADR may not be appropriate for every business, we encourage all of our clients to carefully consider an ADR plan as part of a comprehensive and proactive labor and employment risk management strategy.

For additional information regarding ADR plans, please contact [Rich Millisor](#), [Jim Kurek](#), or [Bob Dezort](#) of Millisor + Nobil's [Employment Litigation Practice Group](#) (800/800-8806).

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