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NEWS

Companies brace for more legal woes

Study suggests costly labor litigation is primary concern

VALERIE MILLER

As the economy worsens, almost all companies are expected to see an increase in lawsuits worldwide and in the United States as companies lay off workers. Some say Nevada is already seeing a legal horizon.

More than 300 in-house legal departments in the United States and Canada. Three out of four U.S. companies say they expect to see an increase in lawsuits involving their companies with labor issues being a primary concern.

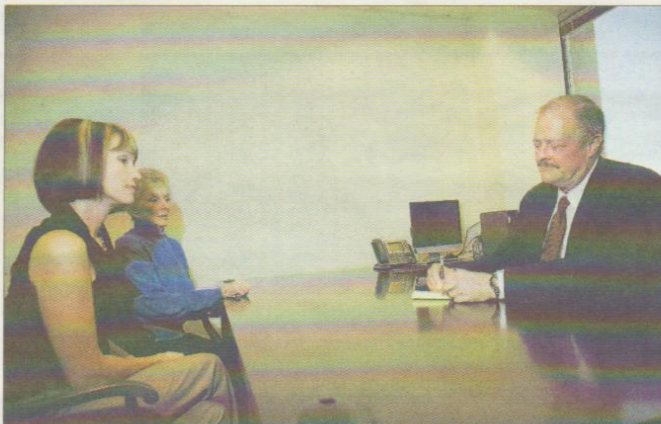
Jeffrey Dykes, Fulbright & Jones practice co-chairman familiar with the study, says it will be enough to decrease 15 percent of litigation," he said.

As the economic times get better, more U.S. companies reported no new lawsuits in 2007 to mid-2008, as compared to 17 percent of firms that reported new lawsuits in the 2007 survey.

Consistent with the study's more pessimistic outlook for the future, said John Mowbray, managing director of Jones & Mowbray in Las Vegas.

"A good snapshot of what is going on in the economy is at the root of the problem," Mowbray said.

"In that area, I think things are going to get worse and I think the business



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 John Mowbray, managing director of Fenemore Craig, a law firm, discusses a case with Jill Medovich, foreground, and Darlene Cook. He said the sour economy is spurring a rise in litigation. Banks, for example, are hiring his firm for help in collecting bad real estate loans.

entities will have to tighten their belts for the economic recession or depression," he said. "If you are one of those laid off, you are going to be upset, especially if you are in a protected class ... you are going to ask, 'Why me instead of Joe or Mary?'"

Labor issues are weighing heavily on corporations' minds, Dykes said, because of the cost of such cases.

"Our survey is reflecting that the large dollar exposures are race discrimination cases, and age and gender (discrimination) are close behind," Dykes said.

That cost cutting may also result in the denial of overtime, which depending on the status of the worker, can also lead to more litigation against a company, Mowbray said.

Companies in the West are experiencing a larger increase in labor disputes than their national counterparts. Wage-and-hour disputes were cited as the largest type of employment multiplaintiff case.

"Wage-and-hour disputes are (usually) about overtime pay, where somebody is disputing whether they were managerial staff or hourly, or an independent contractor or an employee," Dykes said.

Employment claims will likely increase in the next few years because of companies' efforts to reduce costs by cutting labor expenses, said Molly Reznac, a partner with Jones Vegas in Reno.

"Many employers will terminate or lay off those they had a problem with in the past, but those employers may not have

documented those problems. Inevitably, these employees will make a claim," Reznac said in an e-mail. "Even if this person's termination is the result of a layoff, the employer may be required to show why this person was chosen to participate in the layoff."

Companies may also get hit with future regulatory action, the study found.

More businesses reported that they had regulatory proceedings commenced against them in the Western United States (42 percent) than against companies overall (33 percent), the study found.

"The regulatory agencies will be more active, especially environmental agencies, federal and state," Dykes said. "We'll see the (Securities and Exchange Commission) and the Department of Justice commencing some inspections."

A "significant" change in the price of a stock, up or down, will tend to get the SEC's attention, he said. Those price fluctuations are becoming more common as the stock market continues its roller coaster ride.

Nationally, the Environmental Protection Agency was likeliest to take regulatory action against a company; the Department of Justice came in second.

In Nevada, broke contractors may be lax in paying their taxes and licensing fees when they come due next, causing state action, Mowbray said.

The blitz in legal trouble has already arrived in some areas, the attorney said. He has already seen a surge in banks trying to get his firm's help in collecting on bad real estate loans.

"It's a tsunami, a big wave," Mowbray said. "You can't imagine everyone who calls us on this, asking for help."

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