

\$100M SETTLEMENT OF GENDER DISCRIMINATION CLASS ACTION CASE

RIOT GAMES

Headlines recently trumpeted the California State Court's announcement that it expects to file its order affirming the \$100M settlement between Riot Games (makers of League of Legends) and a class of former and present female employees. The suit, filed in November 2018, alleged Riot Games fostered a "men-first" culture that put women at a disadvantage during the hiring process and in the workplace.

Hiring managers were encouraged to recruit and advance "core gamers" (meaning hardcore), and by implicitly assuming that hardcore gamers are men, it put women at a disadvantage in the hiring process and in the workplace. The female workers asserted that this led to a "bro culture" where they were subjected to unequal pay and numerous instances of men grabbing their crotches, air humping, and discussing via email, what it would be like to "penetrate" women working at the company.

After the suit was filed the state civil rights agency, the Department of Fair Employment and Housing (DFEH), opened an investigation into the discriminatory culture at the gaming giant. Fast forward to the end of 2019, the private plaintiffs and Riot reached a \$10M settlement in the workers' action. But in January 2020, in a surprise twist, the DFEH took the unusual step of objecting to the settlement, arguing that the women could be entitled to over \$400M.

The DFEH's activism, in this case, was outside the norm but it seemed to be a reaction to the "Me Too" & "Times UP" movements that saw employees from major tech giants conducting walkouts in support of their female colleagues. The DFEH investigated additional gaming companies, including Ubisoft and Activision, over their "frat boy" culture that allegedly created sexist and toxic work environments.

With the court's official acceptance of the settlement, Riot will pay the plaintiffs \$80M and their Attorneys \$20M. They will also fund and participate in a program whereby their hiring, pay and promotion practices will be monitored by a third party over the next three years.

KEY TAKEAWAYS

Are there takeaways on the prevention front?

It appears that Riot did not incorporate a strong HR team as they grew. Riot HR was too close to senior management. When issues were brought to their attention, they did not investigate or correct it. Instead, they also allowed an atmosphere where retaliation rained down on those who complained. Today, HR is too integral to be ancillary to other major functions within any company. It must have the full backing of the C-suite and Boardroom to make certain that it can act as a valuable tool to prevent potential large class actions to take root.

What is the possible takeaway Insurance-wise?

Employers take note that Employment Practices Liability Insurers and your Broker Advisors are here to provide help. As companies grow, risk management and loss control reviews help avoid crisis and Employment Law is no exception. EPLI insurers regularly offer a growing list of aids to foster loss control. While some are as straight forward as handbook reviews, others offer connections with third-party auditors (at a discount). They can provide confidential advice about ways to improve HR systems and maintain good relations with employees and good reputations with the public.



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Joanne brings 30 years of experience in the insurance industry. Joanne acts as a client advisor and advocate on coverage and legal matters arising from complex Management Liability risk assessment and claim. She also provides product thought leadership and risk counsel to internal stakeholders. Joanne is a frequent speaker at industry events where she shares her extensive experience in D&O, Employment Liability, Fiduciary and E&O lines.

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