

# When HR Becomes the Problem: A Worker Side Employment Lawyer's Take on the \$11.5m SHRM Verdict

BY DAVID J. FISH

## HUMAN RESOURCES

**DEPARTMENTS** are supposed to be the internal guardrails. They sit at the intersection of law, policy, and basic human decency. In theory, HR protects employees from unfair treatment and protects companies from doing something reckless. In practice, as an employment lawyer who has spent years litigating discrimination and retaliation cases, I have seen the opposite: HR is often the accelerant.

That is why a recent jury verdict against the Society for Human Resource Management (SHRM) landed with such force. SHRM, the world's most prominent HR professional association, was hit with an \$11.5 million verdict in Colorado in a race discrimination and retaliation case brought by a former employee, Rehab Mohamed. The numbers were large: \$1.5 million in compensatory damages and \$10 million in punitive damages. But the symbolism was even bigger. If the organization that trains and certifies HR professionals can end up on the wrong side of a discrimination verdict, it tells you something uncomfortable about how HR functions inside many workplaces.

## The SHRM case: When the complaint goes nowhere

According to the allegations aired in court, Mohamed said she was treated worse than white coworkers by a supervisor, excluded from meetings, and subjected to unfair scrutiny. She escalated her concerns internally, including to HR and senior leadership, and says the situation only got worse after she complained.

SHRM has indicated it plans to appeal

and seems to be dug in that it didn't do anything wrong. But juries react to what they think is fair, what they think is honest, and whether they believe the employer did the right thing when it mattered.

Punitive damages of that size are not just compensation. They are a message. The jury apparently concluded this was not a simple mistake. It was conduct that deserved punishment.

## Why HR so often makes it worse

Here is the pattern I see over and over in my work.

HR recognizes something is wrong. The employee is being targeted, marginalized, or treated differently. A manager is behaving badly. A complaint comes in that should trigger real intervention. But HR is afraid to stand up to management. Not always because HR is malicious. More often because HR is structurally trained to avoid conflict upward and to manage risk downward.

So instead of confronting the real problem, HR turns the situation into paperwork.

They "paper the file." They start documenting minor issues, magnifying routine mistakes, and writing up conduct that was tolerated yesterday. They look for "policy violations" that suddenly matter only after the employee speaks up.

Or they do the modern corporate version of a slow walk to the exit: the performance improvement plan, often undeserved, sometimes dishonest, frequently written in a way that makes failure almost inevitable. In the workplace, everyone knows what a sham PIP is. It is not a plan to improve. It is a plan to build a story.

From the employer's perspective, this may feel safe. From a jury's perspective, it often looks like a cover-up.

"HR is not your friend" is a refrain heard in many workplaces and known by jurors. The SHRM verdict crystallizes why.

## The hidden cost of made-up allegations

There is another dynamic HR routinely underestimates: what false allegations do to a person.

If you want a lawsuit, accusing someone of being bad at their job when they know it is false is an excellent way to get one. People can live with being laid off. They can live with "we are restructuring." They can even live with "it is not a fit." What they struggle to live with is being told, on paper, that they are incompetent, untrustworthy, insubordinate, or disruptive, especially when those labels are exaggerated, selectively enforced, or tolerated in others.

False accusations make employees angry because they feel cornered and defamed. They start collecting emails. They start talking to coworkers. They start recording timelines. They start calling lawyers. And once they see HR participating in a narrative they believe is made up, any trust is gone.

If a company truly wants to move on from an employee, fine. Businesses make changes. Not every relationship works. But do it honestly. Do it professionally. And if you know the employee is going to be harmed by the decision, consider offering a reasonable separation package so the person can land on their feet and move on with their life.

## In plain terms, dangle a carrot; do not swing a hammer

A severance offer does not fix discrimination. It does not excuse unlawful conduct. But in many ordinary, non-egregious disputes, an honest off-ramp can

prevent the worst outcome for both sides: years of litigation fueled by an employee's belief, often correct, that HR manufactured a termination story after the fact.

### The bigger trend: Big verdicts often follow HR "process" failures

The SHRM verdict fits into a broader pattern that shows up in other major workplace cases. Different facts, different industries, same theme: employees raise concerns, and the internal system either ignores them, minimizes them, or retaliates.

Tesla faced a massive verdict in a racial harassment case where workers reported a hostile environment, and the company was found to have failed to correct it. AutoZone was hit with a huge punitive award in a pregnancy discrimination case

where the jury apparently believed the company's explanations did not match reality. Liberty Mutual recently faced a major jury award in an age discrimination case involving claims of pretext. Walmart drew national attention in a disability accommodation case where rigid rule-following overtook common sense.

These cases are not all identical, and each has its own record. But they illustrate something juries punish: when a company had a chance to fix the problem early and instead chose to manage the optics, manage the paperwork, and manage the employee out.

### HR's real job, in one sentence

The best HR professionals do two things at once: they protect the company and they protect fairness. Those goals are

not in conflict. In fact, fairness is often the best risk management there is.

But when HR becomes a shield for management rather than a check on management, it creates exactly the conditions that lead to runaway verdicts: perceived dishonesty, retaliation narratives, and documentation that reads like a script.

The SHRM verdict is a reminder that "good process" is not the same as good judgment. Policies do not impress juries. People do. And when HR is seen as helping build a false story instead of preventing harm, the consequences can be brutal. ■

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