

WHAT TYPES OF DAMAGES AND REMEDIES ARE AVAILABLE IN EMPLOYMENT LAW CASES IN OHIO?

The answer to this question will depend on the type of legal claim you bring. For example, discrimination lawsuits have different damages available if it involves a hostile work environment or a wrongful termination. Also, discrimination under the Family and Medical Leave Act (FMLA) has different damages than discrimination under the Americans with Disabilities Act (ADA).

There are many federal and Ohio labor laws that an employer could violate that would result in compensation for an employment law violation. It is important to note that these damages are available in lawsuits and may be awarded by a judge or a jury. On the other hand, settlements are contracts and may contain different damages or agreements that are not contained in this article.

Below is a summary chart of available damages for the most common lawsuits against an employer in Ohio. The definitions and explanations of the various damages are explained more fully below the chart. Damages are available for a particular category if the corresponding box is marked with an "X."

Damages Available for the Most Common Employment Law Claims in Ohio							
Damages Available	Discrimination and Retaliation	FMLA	Wage and Hour	Hostile Work Environment	Workers Compensation Retaliation	Breach of Contract	ERISA
Compensatory Damages	X	X	X	X	X	X	X
Liquidated Damages	X	X	X	X		X	
Treble Damages			X				
Punitive Damages	X			X			
Attorneys' Fees and Costs	X	X	X	X	X	X	X
Prejudgment/ Postjudgment interest	X	X	X	X		X	X
Declaratory Judgment	X	X	X	X		X	X
Injunction	X	X	X	X		X	X
Reinstatement	X	X	X	X	X		X

This chart provides the widest range of damages in these specific employment law areas but each case is unique and not all damages will be available. This chart is only meant to be a helpful guide and not legal advice or a guarantee.

Compensatory Damages: Compensatory damages represent money awarded to compensate the employee for any loss or injury as a result of the claim giving rise to the lawsuit. Compensatory damages take several forms, including:

Back pay: Back pay represents payment for wages wrongfully withheld and/or for services that an employee could have performed had he/she not been terminated (also referred to as

lost wages). This is typically the amount owed between the date of termination and date of final judgment in the lawsuit.

Benefits: If the employee received benefits (such as insurance), the benefits that the employee was entitled to while employed can be back-dated to cover the time period that has passed since the termination.

Front pay: Front pay represents payment for lost future earnings. This is the amount owed between the final judgment in a lawsuit and the time an employee is reinstated or, if reinstatement is not feasible, a lump sum awarded instead of reinstatement.

Emotional Distress: emotional distress damages is a monetary award that is designed to compensate for emotional harm that has been suffered. It is not limited to situation where the employee needed to see a therapist or mental health professional. An individual can testify as to the effect the wrongful termination or events had on them and what emotional distress they went through or continue to go through. The Family and Medical Leave Act (FMLA) and the Age Discrimination in Employment Act (ADEA) do not provide for emotional distress damages. In addition, claims for unpaid wages under Ohio overtime laws and the Fair Labor Standards Act (FLSA) do not allow for recovery of emotional distress. Also, Ohio labor laws and federal laws have caps on the amount that can be recovered. Ohio law caps emotional distress damages at the greater of (a) \$250,000 or (b) three times the economic damages (back pay, front pay, benefits), which is subject to a maximum of \$350,000. Federal law caps the damages based on the employer's number of employees.

Liquidated Damages: Liquidated damages represent an amount equal to the unpaid wages that are awarded. Liquidated damages are sometimes referred to as "double damages" because they match the amount of unpaid wages owed, meaning the employee is awarded an amount for unpaid wages, plus an additional award that matches the total unpaid wages.

Treble Damages: Similar to liquidated damages, treble damages represent the amount equal to twice the unpaid wages awarded. Treble damages are sometimes referred to as "triple damages" since the employee is awarded unpaid wages, plus an additional two times the unpaid wages if the legal claim allows for treble damages.

Punitive Damages: Punitive damages are an amount awarded to punish the employer for intentionally violating the law and deter them from doing so in the future. Whether punitive damages are available in a specific case is up to the judge and can be a very high standard to meet. Similar to emotion distress damages, the Ohio Labor Laws and federal laws cap the amount an individual can recover in punitive damages. Ohio law caps punitive damages at two times the compensatory damages awarded, up to a maximum of \$350,000. Federal law caps punitive damages based on number of employees (See emotional distress damages above).

Attorneys' Fees and Costs: If an individual retains an attorney and files a lawsuit, then the attorney will bill the client for their time spent working on the case. The attorney will also bill for costs and expenses advanced on the client's behalf, such as lawsuit filing fees or witness fees. If the claim allows for payment of attorneys' fees and costs, then if the individual prevails on a lawsuit, the employer must pay the attorneys' fees and costs owed to the attorney. The award of

attorneys' fees and costs is especially important in unpaid overtime and other unpaid wage cases where the amount of money at stake may not be substantial.

Prejudgment and Postjudgment Interest: Prejudgment interest is awarded to compensate a person for the delay and loss of use of the money she was previously entitled to, but ultimately had to wait until final judgment in her lawsuit to receive. Postjudgment interest is awarded to compensate her for the delay in time between final judgment in the lawsuit and the date the employer actually makes the payment.

Declaratory Judgment: A declaratory judgment is a ruling from the court that defines the legal rights between the parties. Declaratory judgments are often sought by employees against their employer for the court to declare that a certain practice or policy of the employer is unlawful.

Injunction: An injunction is a ruling from the court that orders a person or entity to do or refrain from doing something. In the employment context, employees seek injunctions against their employers to prevent them from continuing to engage in unlawful practices or policies.

Reinstatement: Reinstatement is the right to be placed back in the original position you held with your employer before you were terminated.

The above table provides a general overview of the legal remedies available in Ohio employment law claims. However, the precise legal remedies available to a person will differ based upon the specific legal claims that are brought.