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You have been terminated from a company where you have been working for several years or a major part of your career. You might have expected this to happen or perhaps it came out of nowhere. You are angry and frustrated; you feel that you were fired unfairly and that the employer should "pay" for the harm the company caused you. You feel that your livelihood has been taken away from you through no fault of your own. You might believe that you have been discriminated and/or retaliated, and you are considering pursuing a legal action against your employer for wrongful termination and possibly other claims.

How do you decide whether it is worth suing your former employer? Below is a list of useful factors you should consider and keep in mind in determining whether you should sue your employer:

1. Wage Loss

   The core element of a settlement or a judgment in a successful wrongful termination action is loss of wages that you would have earned if you continued to work for the company from which you were fired. The greater your loss of back wages is, the greater your damages are and the more you are likely to recover for your claims. This means that if you are a highly compensated employee, who is making over $80,000.00, the employer's monetary liability will be much higher for the same period of unemployment than if you were working at a minimum-wage job.

2. Your Length of Employment at the Company

   Jurors are far more sympathetic to employees who have contributed to the company a significant part of their career or their entire career than to someone who has only been working at the company for a few months or under a year. Being terminated after a short period of employment might mean that the employee wasn't performing well or didn't get along with his co-workers and supervisor. After being given several chances to improve his or her performance, the employer has decided that separation would be in the best interest of the company and the problem employee.

   However, one cannot help but suspect that something has gone wrong in the way the company treated an employee, where the worker who had been employed with the company for 10, 15 or more years, all of a sudden started having performance issues and deserves to be terminated. The employers' attorneys recognize this and will be more willing to advise their clients to settle the case where the employee dedicated a significant period of his career to the company.

3. Performance Record

   The better your performance record is, the more promotions, bonuses and other signs of recognition you have received from your employer, and the smaller your disciplinary record is, the harder it will be for the employer to argue that you were terminated because of your performance issues or because your personality conflicts with co-workers or a supervisor. If you have been working at a company for 7 years and your performance record was excellent till a year ago, when you started complaining about harassment, and since then you have been written up for poor performance – it sure looks like your employer is retaliating against you.

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4. The Egregiousness of Your Employer's Violations

If your termination is accompanied by racial/ethnic or otherwise discriminatory slur, or if your employment has been tarnished with sexual harassment, such as inappropriate comments and/or touching of sexual nature, this creates yet another risk for the employer that the jurors will be angry at the employer and will be more willing to punish the employer by awarding larger damaging to the aggrieved employee.

5. Availability of Compelling Evidence of Your Employer's Wrongful Conduct

Employers rarely, if ever, admit that they have done something wrong. I don't think many employment lawyers can remember ever hearing the opposing side actually say: "We discriminated against, retaliated against, or harassed your client." Thus, solid evidence of violations is an essential element of proving your case. Having unbiased witnesses, such as current or former employees of the employer-defendant, who can corroborate your allegations against the employer before you even file a lawsuit is one of the best kinds of evidence you can have. On the other hand, if your employer has a number of witnesses who will support the employer's version of the case, and your potential witnesses are not willing to speak because they are afraid of retaliation, pursuing your case will likely be an uphill battle.

If your case involves discrimination and harassment claims, and you complained about your co-worker and supervisor's conduct to the manager or the HR departmetn, having those complaints in writing (e-mails, etc…) will also be very helpful in rebutting the argument, that you can be sure the employer will make, that you never complained about anything.

6. Emotional Stability

Litigation is an inherently stressful process that requires intellectual and mental commitment on your part. A typical wrongful termination claim may last anywhere from 6 months to two years or longer, if the case goes to appeal. Although this doesn't mean that you will be constantly and continuously involved in each and every stage of litigation (that's your attorney's job), you will have to take part in all the important stages and decisions in the case. You will have to answer questions in writing, produce documents, testify at a deposition and possibly appear at trial, and be cross examined by the "enemy" facing them in the courtroom. You have to be honest with yourself and your attorney and decide whether or not you have what it takes to pursue a case against your employer without paying an emotional price that no monetary recovery will justify.

7. Documenting Psychological Injuries.

This element might contradict the previous factor, but it is just as important if not more important. Documenting your emotional distress and anxiety/depression associated with the situation at workplace, harassment, discrimination, employment termination, loss of income and the ability to support yourself and your family are very important components of pain and suffering (or so-called non-economic damages). Receiving psychological or psychiatric counseling, and/or being placed on stress leave or temporary disability can greatly enhance the value of your case.

8. Mitigating Damages

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A claimant in a wrongful termination suit, who seeks to recover, among other damages, loss of wages, has a duty to mitigate his damages through reasonable, continuous and consistent effort to find a new job. You should document all your efforts to find a job, including e-mails sent to prospective employers, rejection letters, a list of website where you posted your resume, a list of offices where you filled out applications, companies where you were invited to an interview, etc…

It is important to remember that at the end of the day, pursuing a legal action for wrongful termination against your former employer is first and foremost a business decision. You might think today that it's not about money to you but it's about justice and about making sure that your employer doesn't harm its other employees the same way it harmed you, the reality is that you are not a crusader – you are not going to change the company's perspective on how they treat their employees. If they are only concerned about the bottom line, and they treat employees as means to maximizing their numbers, a lawsuit is not going to change that, especially if it's a large company. Further, the law only provides one relief in civil cases – damages or money. This is the only remedy which is available to you as a plaintiff. Therefore, you should look at your potential case accordingly. If you are thinking of starting a battle against your employer, do a due diligence to make sure that your chances of winning and high. The above factors are good general guidelines in evaluating your case before you even talk to an employment attorney.