

## **1998 DISCRIMINATION COMPLAINT REPORT (LABOR CODE §98.75)**

Labor Code §98.7 which became effective January 1986, establishes the authority of the Labor Commissioner in the investigation, processing and resolution of employee complaints for discrimination arising under various sections of the Labor Code. The procedures established pursuant to Labor Code §98.7 entail an investigation and or the convening of an investigative hearing after the filing of a complaint alleging discrimination in employment by an employee. In the event that the Labor Commissioner determines that a violation has occurred, the statute authorizes the Labor Commissioner to direct the violator to cease and desist from the violation and to take such action as is deemed necessary to remedy the violation including, where appropriate, rehiring or reinstatement of the aggrieved employee, reimbursement of lost wages and interest thereon, and or payment of reasonable attorney's fees associated with any investigative hearing by the Labor Commissioner.

Currently, the Division is charged with enforcing twenty one statutes prohibiting discrimination in the work place. While the majority of these statutes are contained in the Labor Code, the Division also enforces statutes contained in the Health and Welfare Code and the Unemployment Insurance Code.

The following data is submitted in accordance with Labor Code §98.75:

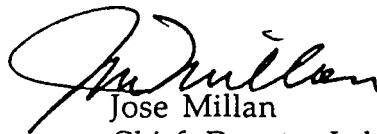
Exhibit "A" shows the number of complaints filed or opened under the various Labor Code Sections in 1998. The Division recorded a total of 653 cases filed in 1998. More than one third of all cases opened during the year were complaints filed pursuant to Labor Code Section 98.6, which prohibits retaliation or discrimination in the workplace as a result of filing or intent to file a claim with the Labor Commissioner. These claims numbered 216. The second largest group of complaints of discrimination filed arose from health and safety issues in the workplace. These complaints, numbering 138, involved employees who claimed discrimination due to reporting safety and health violations on the job, which comprised 21% of total complaints filed. The third largest group were those which arose as a result of employees alleging discrimination in the workplace due to sexual orientation, numbering 127, which comprised 19% of total complaints filed.

Exhibit "B" shows the disposition of the various discrimination cases that were processed in 1998. The Division issued determinations in 66 cases, finding for the complainant in 9 of those and for the respondent in 57

cases. Of the total 565 cases closed in 1998, 83 were withdrawn by the complainants before a determination was reached, and 60 cases resulted in voluntary settlements to the satisfaction of both parties.

Beginning in 1993 the Division implemented a statewide centralized Discrimination Complaint Investigation (DCI) Unit with five Deputy Labor Commissioners assigned full-time to investigate all discrimination complaints referred to the Division. The Deputies in the DCI Unit, currently ten full-time investigators, receive ongoing training in investigative techniques and report writing in a effort to ensure they all have a thorough knowledge of the discrimination statutes. The efforts of the Division in centralizing and automating the investigative process of discrimination complaints have proved successful during this period of scarce public resources. The Division will continue to review its procedures to ensure the continuing success of the program.

Respectfully Submitted,

A handwritten signature in cursive script, appearing to read "J. Millan".

Jose Millan  
*Chief Deputy Labor Commissioner*

Attachments (2)

February 9, 1999

CALENDAR YEAR 1998 DISCRIMINATION COMPLAINTS FILED

1/28/99

EXHIBIT 'A'

Discrimination Complaints Labor Code Section	Total Cases Filed in 1998
98.6 Labor Commissioner Complaints, (LC)	216
98.6/230 LC Complaints/Jury Duty	1
98.6 /232 LC Complaints/Disclosure of Wages	1
98.6/232/6310 LC Complaints/Jury Duty/Safety Complaints Retaliation	1
98.6/1025 LC Complaints/Alcohol Rehabilitation	1
98.6 / 1101 / 1102 LC Complaints/Political Activity/Sexual Orientation	1
98.6 / 1102.5 LC Complaints/Whistleblower	3
98.6 / 1197.5 LC Complaints/Sex Based Wage Discrimination	1
98.6/1237 LC Complaints/Violation of Unemployment Insurance Code	1
98.6 / 6310 LC Complaint/Safety Complaints Retaliationk	4
98.6 / 6310 / 6311 LC Complaints/Safety Complaint Retaliation/ Refusal to Work	2
230 Jury Duty	18
230.3 Volunteer Firefighter	3
230.7/230.8 School Visits	1
230.8 Visiting a Child's School	1
232 Disclosure of Wages	4
232/1102.5 Disclosure of Wages/Whistleblower	1
232/6310 Disclosure of Wages/Safety Complaints Retaliation	1
232/1197.5/6310 Disclosure of Wages/Sex-Based Wage Disc./Safety Comp. Retaliation	1
1025 Alcohol Rehabilitation	2
1025/1028 Alcohol and Drug Rehabilitation	1

CALENDAR YEAR 1998 DISCRIMINATION COMPLAINTS FILED

1101	Political Activity	1
1101/1102	Political Activity	2
1102.1	Sexual Orientation	127
1102.1 / 1101	Sexual Orientation/Political Activity	1
1102.1 / 1102.5	Sexual Orientation/Whistleblower	2
1102.1 / 6310	Sexual Orientation/Safety Complaint Retaliation	4
1102.1/6310/6311	Sexual Orientation/Safety Complaint Retaliation/Refusal to Work	1
1102.5	Whistleblower	43
1102.5 / 1197.5	Whistleblower/Sex-Based Wage Discrimination	1
1102.5 / 6310	Whistleblower/Safety Complaint Retaliation	3
1102.5 /6310/ 6311	Wistleblower/Safety Complaint Retaliation/Refusal to work	1
1197.5	Sex-Based Wage Discrimination	17
1197.5/6310	Sex-Based Wage Discrimination/Safety Complaint Retaliation	1
1237	Violation of Unemployment Insurance Code	3
1596.881	Health & Safety Code	8
2929	Wage Garnishment	3
2930	Shopping Investigator	2
6310	Safety Complaint Retaliation	138
6310 / 6311	Safety Complaint Retaliation/Refusal to work	25
6311	Refusal to work	6
<b>TOTAL</b>		<b>653</b>

DISPOSITION OF DISCRIMINATION CASES CALENDAR YEAR 1998

EXHIBIT 'B'

<i>DISPOSITION OF DISCRIMINATION CASES</i>	<i>TOTAL</i>	
Determination Issued		66
Determination for Complainant	9	
Determination for Respondent	57	
Investigative Hearings Held	3	
Appeals to Director	58	
Compliance Obtained: Proceedings Settled		60
Complaints Withdrawn		83
Complaints Abandoned		260
Complaints Dismissed		96
GRAND TOTAL		565