

The Real Risks of Artificial Intelligence in the Workplace: EEOC Obtains First Settlement in AI Class Action

Article By:

Jason N. W. Plowman

Matthew P.F. Linnabary

In May 2022, the EEOC filed an age discrimination lawsuit against a group of affiliated companies employing English-language tutors. According to the EEOC, for a brief period in the spring of 2020, those companies programmed application software to automatically reject female applicants over 55 years old and male applicants over age 60. The lawsuit alleged this screening process affected over 200 applicants that were above the programmed age thresholds. The parties have now reached a settlement.

The settlement itself is expansive. As is typical with many EEOC settlements, the provisions extend beyond monetary payments. Here, in a consent decree filed in federal court, the employers agreed to various non-monetary obligations, including providing notice of the lawsuit to high-level executives and HR employees, retaining a third-party group to conduct extensive training on all federal equal employment opportunity laws, and inviting the rejected applicants to re-apply (with reporting obligations to the EEOC).

This lawsuit and the subsequent settlement is likely just the first of many of its kind, but it highlights the need to proceed with caution when relying on automated decision-making processes, as well as AI usage generally. Employers should accordingly critically assess the use of technology – such as the application software at issue in the EEOC’s lawsuit – and ensure that its use complies with applicable employment laws.

© Polsinelli PC, Polsinelli LLP in California

National Law Review, Volume XIII, Number 236

Source URL: <https://natlawreview.com/article/real-risks-artificial-intelligence-workplace-eec-obeains-first-settlement-ai-class>