

# Why HR should be using big data in legal disputes

by Nicola Middlemiss

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Big data has long been heralded as a game changer for HR but analytics can be used for far more than talent management – according to two industry experts, it can also play a critical role in mitigating legal risk.

“As companies continue to face employee lawsuits in a range of areas, we have seen big data play a critical new role in the employment litigation process,” says Zev J. Eigen, global director of data analytics at employment law firm Littler Mendelson.

Toronto office managing partner Sari Springer agrees – she says big data can not only cut costs for companies embroiled in a legal battle but it can also predict future impact on the organization.

“Predictive modelling allows assessment of the length, costs and outcome of lawsuits filed against a company, as well as what to expect in the deposition and discovery process,” she tells HRM.

“By anticipating hard costs (such as legal fees and the settlement/award amount) and soft costs (such as the impact on personnel and brand reputation), employers are in a better position at inception to decide how best to proceed with a particular case.”

However, both Eigen and Springer say big data comes with its own unique challenges.

“A challenge for employers is to find a way to embrace the strengths of big data without losing sight of their own business goals and culture amidst potential legal risks,” says Eigen.

The pair also said that employers looking to develop big data methodologies can sometimes be hindered by guidelines and standards that very quickly become out-of-date.

“Accordingly, companies should exercise caution to try not to run afoul of laws—in areas such as privacy, discrimination, background checks and data security—that may not have caught up with rapidly-evolving technology,” says Springer.

While applying data analytics to employment law might not be considered common practice just yet, Eigen says it's certainly the direction in which the industry is moving.

"The digitization of information has created more data than ever, and our ability to use computer-based techniques to leverage this information has expanded exponentially," he says.

"In this environment, employers should prepare for a new world of workforce and litigation management heavily influenced by data sets, analytics and statistical modelling. Employers who can balance the opportunities presented by data science with the laws dictating its use will be best positioned to take advantage of all that big data has to offer."

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