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AI IN FIRING: CAN AN ALGORITHM DISCRIMINATE?

Algorithms are making high-stakes employment decisions, and not always fairly. Across industries, companies are using automated monitoring tools to track productivity, flag underperformance, and, in some cases, trigger terminations, often with little to no human oversight. For workers with disabilities, older employees, or those on medical leave, these systems carry serious legal risks that many employers have yet to fully reckon with.

Barrett & Farahany's workplace discrimination attorneys understand how prejudiced AI operates in the firing process and what legal protections exist. This knowledge is critical for both employees and employers.

“THANK YOU FOR EVERYTHING!! I TRULY APPRECIATE ALL YOU HAVE DONE FOR ME AND THE SUPPORT YOU HAVE BEEN THROUGH THIS ENTIRE PROCESS. I COULDN'T HAVE PICKED A BETTER FIRM TO WORK WITH. THANK YOU AGAIN.”

- C.D.

Yes. Automated tracking systems measure productivity through metrics like active screen time, keystroke rates, and response latency. On the surface, these metrics appear neutral. In practice, they can systematically disadvantage protected groups.

Workers using ADA-approved accommodations, such as reduced-schedule leave or assistive technology, may show lower output by design. A discriminating AI does not know the difference between an underperforming employee and one operating within legally protected parameters. It simply flags the data and, in some systems, initiates disciplinary action or termination automatically.

“The algorithm did it” is not a valid legal defense. Employers are fully accountable for discriminatory outcomes, regardless of whether automation was involved.

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Our ability to offer a comprehensive array of legal services across numerous states is made possible by our strategically positioned network of attorneys. Our attorneys are situated in states across America, and proudly extend our renowned brand of resources to its respective region.

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