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Protecting Your Legal Rights- Pursuing a Claim of Discrimination

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In order to pursue a claim of employment discrimination in federal court, the law requires that within a specified time frame, that a Charge of Discrimination be filed either with the federal or state administrative agency. The federal administrative agency is the Equal Employment Opportunity Commission (EEOC) and the Illinois state agency is the Illinois Department of Human Rights (IDHR). The decision to file the charge in either the federal or state agency depends on numerous factors such as the type of discrimination alleged, the type of employer, the time that has elapsed since the discriminatory act and the number of employees at the company. For instance, an employee may file a charge of discrimination with the EEOC against an employer with at least 15 employees for actions under Title VII (race, religion, national origin and gender) and the Americans with Disabilities Act and 20 or more employees under the Age Discrimination in Employment Act. In the IDHR, an employee may file a charge against an Illinois employer with 15 or more employees or a few as one or more persons, if a charge alleges discrimination on the basis of physical, mental or perceived disability, or sexual harassment.

In either agency, after the charge is filed and if both parties agree, the charge may be submitted to mediation for possible resolution. Participation in mediation is voluntary and confidential. If the mediation is unsuccessful then the charge is investigated. If the investigation results in a finding that a violation has occurred with regard to one or all the allegations, the employer and the charging party will be informed of the finding in a letter of determination that explains the finding. Thereafter, the agency will attempt to resolve the matter with the employer to develop a remedy for the discrimination. Whether or not the agency finds a violation, after the agency issues a Notice of Right to Sue, a lawsuit may be filed in federal court. In federal court, potential relief for violations may include, back pay, hiring, promotion, reinstatement and/or front pay. Remedies may also include the payment of compensatory and punitive damages as well as attorney's fees and court costs. Because this is only a brief discussion of the many considerations involved in where to file a claim of discrimination, it is highly recommended that you seek the assistance of legal counsel. For further information, please visit my web site at www.joettedoran.com.

This article is not intended as legal advice. You should consult with an attorney for individual advice regarding your own situation.

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