

## **EEOC Files Contempt Action Against Employer for Alleged Breach of Settlement Agreement**

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On December 3, 2014, the U.S. **Equal Employment Opportunity Commission (EEOC)** issued a press release announcing that it has filed a contempt action in Federal court against a Charlotte-based employer. In that action, the EEOC claims that the employer breached a settlement agreement between them by failing to pay monetary relief to the alleged victims of sexual harassment and retaliation. This case demonstrates not only the willingness of the EEOC to aggressively pursue remedies on behalf of victims of discrimination, but also the potential legal risks associated with noncompliance with the terms of a settlement.

The EEOC brought the initial suit on behalf of a class of aggrieved employees, alleging that those individuals were subjected to hostile environment sexual harassment and retaliation in violation of Title VII of the Civil Rights Act. The case was settled and the employer entered into a five-year consent decree by which it agreed to pay \$155,000 in relief to the alleged harassment victims. The decree also required the employer to provide non-monetary relief, including revisions to its sexual harassment policy, annual training of employees regarding harassment and retaliation, and reporting to the EEOC of any complaints of harassment throughout the five-year term of the decree.

According to the EEOC, the employer failed to make the monetary payment to the alleged harassment victims by the deadlines established in the decree. The EEOC also alleges that the employer failed to certify that it had conducted the required training, or to take corrective action after the EEOC sent notice requesting the employer to cure these deficiencies. The contempt action requests the Federal court to enforce the consent decree, and to order the employer to show cause why the employer should not be held in contempt for its failure to comply with the settlement.

In its press release regarding this contempt action, the EEOC also notes that the Court can enter sanctions – including the imposition of a daily fine on the owners of the company until they comply with the consent decree. While it is uncertain whether the court would impose such sanctions, the EEOC's action places pressure on the employer to demonstrate a compelling explanation for its alleged noncompliance with the settlement.

With the many charges of discrimination that are filed against employers each year with the EEOC,

employers are often offered the opportunity for mediation or conciliation. Mediation can certainly be appealing to employers as means of resolving the dispute early and avoiding the expense of future litigation. Even when charges result in litigation filed by the EEOC, employers still usually have an opportunity to resolve these suits through alternative dispute measures such as mediation. However, Employers should understand that upon entering into a settlement, they have a contractual obligation to comply with the terms of the agreement – which may include monetary relief to the alleged victims of discrimination and non-monetary relief intended to prevent future discrimination. Failure to comply with these commitments can result in further litigation, attorneys' fees, and penalties.

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