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Procedures, time limits and type of relief available

Employees or applicants for employment with claims of discrimination may have options in the procedures to be employed in pursuing these claims. Generally, claims brought under Michigan's civil-rights laws do not require the filing of an administrative charge with either the Michigan Department of Civil Rights (MDCR), or the federal Equal Employment Opportunity Commission (EEOC). Claims under the Michigan civil-rights statutes prohibiting race, gender, national origin, religion, age, marital status, retaliatory motive, weight, or disability status can be pursued by proceeding directly to circuit court.

Parallel claims can be pursued under the federal civil-rights laws. Most federal civil-rights statutes require the filing of an administrative claim with either the MDCR or EEOC. A lawsuit under most federal civil-rights statutes requires the filing of these administrative charges before bringing suit. Failure to file a timely administrative charge will result in a dismissal of most federal civil-rights lawsuits.

There are certain time limits which must be observed in bringing either an administrative charge before the MDCR or EEOC or filing suit. Lawsuits under the Michigan civil-rights statutes must be filed in circuit court no later than three years from the date of the complained about act of discrimination. Administrative charges of discrimination under the federal statutes must be filed within 300 days of the alleged act of discrimination. In addition, once the administrative charge is closed, the EEOC will issue what is known as a "right-to-sue letter". A lawsuit must be filed within 90 days of the receipt of the right-to-sue letter. A lawsuit under most federal civil-rights statutes will be subject to dismissal if the administrative charge was not filed within 300 days of the act of alleged discrimination, and the lawsuit was not instituted within 90 days of the receipt of the notice of right-to-sue letter issued by the EEOC.

Lawsuits under the Whistleblower Protection Act must be brought (filed in court) within 90 days of the adverse employment action (such as termination/demotion) or constructive discharge.

Termination claims against an employer where there is an alleged breach of a collective-bargaining agreement are controlled by a complex set of timeliness rules. The time for bringing such a lawsuit can be as short as 6 months from the date of discharge. Similarly, the time limits for bringing a lawsuit against a union for breach of its duty of fair representation is equally complex and could be as short as 6 months from the date of termination from employment.

Certain common-law claims arising out of the workplace, such as defamation, have statutes of limitations as short as one year.

Under the Michigan civil-rights statutes, a lawsuit can seek both money damages and equitable relief. Damages are in the form of economic losses (past and future lost wages, benefits and other economic advantages of employment), and non-economic damages (mental distress, humiliation, loss of reputation, embarrassment). Equitable relief means that the court can order reinstatement, promotion, transfer, reemployment, rehiring, or that the applicant for employment be hired. Employees who prevail in their civil-rights suits can have all or a part of their attorney fees paid by the employer as part of the recovery. Punitive damages are not available under Michigan civil-rights laws. However, there are no caps or limits on the amount of non-economic damages which can be recovered under the Michigan civil-rights statutes.

Suits under the federal civil-rights statutes are similar in that economic and non-economic damages, as well as equitable relief, is available. Punitive damages are available against private employers (not available against public employers). Depending on the size of the employer, suits under most federal civil-rights statutes have a cap or limit on the amount of non-economic damages which can be recovered. For larger employers (500 or more

employees?), the cap on non-economic damages (which includes punitive damages) is \$300,000.00.

Under both the state and federal civil-rights statutes, future economic losses can be recovered.