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New Illinois Law Allows Discrimination Cases in State Court

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To advance a valid claim for discrimination or harassment in Illinois a Charge of Discrimination must be filed with an administrative agency such as the Equal Employment Opportunity Commission (“EEOC”) or the Illinois Department of Human Rights (“IDHR”). If filed with the EEOC, regardless of the finding, an individual is allowed to proceed to federal court to have their case heard before a judge or jury. Beginning January 1, 2008, an individual filing a charge of discrimination under the Illinois Human Rights Act (“Act”) will be able to proceed with a lawsuit in state court. Previously, actions in the IDHR were limited to proceeding in the Illinois Human Rights Commission before an administrative law judge. The new law will allow claimants to choose between a hearing before the Commission and a state court lawsuit before a judge and jury. In particular, claimants will be able to file a claim in a state court lawsuit if the charge is dismissed by the IDHR based on lack of substantial evidence or if the IDHR determines that the claim has substantial evidence to support the charge under Act. In that case, the claimant could either file suit on his or her own behalf, or request the IDHR file suit on his or her behalf. Also, if the IDHR does not finish its investigation within 365 days, a claimant can file suit in circuit court on their own behalf. Before this enactment, claimants were required to proceed in the Illinois Human Rights Commission which has limited discovery, no option of a jury trial and often with substantial delays. The downside of filing a state court action includes the often substantial cost of filing and litigation. As such, a detailed analysis is required to determine the best possible approach to any case of discrimination or harassment. For further information, please visit our 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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