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Constructive Discharge—Intolerable Working Conditions

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Typically, an employer is not subjected to a claim of wrongful discharge or liability when an employee voluntarily quits. However, where an employee's working conditions are so intolerable a reasonable person would be compelled to resign, an action for constructive discharge may exist. When an employee involuntarily resigns in order to escape intolerable and illegal employment requirements to which he or she is subjected because of race, color, religion, sex or national origin, the employer has committed a constructive discharge in violation of Title VII. An action for constructive discharge is can also be stated under the Age Discrimination in Employment Act, the Americans with Disabilities Act, the Family Medical Leave Act and most other federal statutes. An for constructive discharge will subject an employer to a federal or state court action for damages including the employees lost wages, benefits, attorneys' fees, costs, compensatory and punitive damages.

Proving a case of constructive discharge is more difficult than if an employee was directly terminated by an employer since the question is often whether the working environment was truly "intolerable." As such, if you feel that your working conditions are illegally intolerable, you are well advised to seek legal advise before you terminate your employment. If the employer is violating the law and the working conditions are or are becoming intolerable, action on your behalf may cease the behavior so that you do not have to leave or may provide the employer with an incentive to provide you with a severance package if the employer anticipates that a violation of the law occurred and that legal action will commence. In order to pursue a case of constructive discharge a Charge of Discrimination under the applicable statute must to be filed with a state or federal administrative agency. Because quick action is required as the time limitations are strict, I encourage you not to delay receiving information regarding your legal rights. 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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