

Responding to Charges of Discrimination



Jason D Keck
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Your cooperation is greatly appreciated.

What Is The Average Cost of Litigation From The Administrative Stage Through Litigation?



- a. \$25,000
- b. \$50,000
- c. \$60,000
- d. \$150,000
- e. None of the above

Litigation Risk is Real

- Employment lawsuits make up a disproportionate percentage of the federal docket
 - Last year over 50,000 employment cases were filed in federal court
 - Over \$1.4Billion in damages awarded
- Easy to file a lawsuit and the stakes are very high
 - Even Easier Now with EEOC!
- Managers feel paralyzed by employment laws--creating more problems down the road

Anti-Discrimination Laws

Employment discrimination is prohibited by:

Federal Statutes

State Statutes

Local Statutes

Common law



Discrimination Basics

Under many discrimination statutes, an employee must file a charge of discrimination with the EEOC and/or other applicable Agency prior to filing suit.

What are the protected classes?

- Race
- Color
- Religion
- National Origin
- Sex
- Age
- Disability
- HIV/AIDS
- Genetic Information
- Pregnancy
- Childbirth
- Medical conditions related to childbirth
- Mental Disability
- Marital Status
- Sexual Orientation
- Military Status
- Unfavorable Military Discharge
- Gender Identity
- Arrest Record
- Lack of a permanent mailing address
- Using the mailing address of a shelter as one's own
- Ownership of a medical marijuana license
- Ownership of a concealed carry license
- Citizenship
- Familial Status
- Victims of Domestic Violence
- Order of Protection Status

Retaliation Claims




The Problem
Employee's
Best Friend

NOTICE OF CHARGE OF DISCRIMINATION


Do We Have To Respond To This?

Notice of Charge of Discrimination

 EEOC <no-reply@service.eeoc.gov>
To Keck, Jason

[Reply](#) [Reply All](#) [Forward](#) [...](#)

Tue 12/19/2023 3:22 PM

 You forwarded this message on 12/19/2023 3:22 PM.
If there are problems with how this message is displayed, click here to view it in a web browser.

CAUTION: This email originated from outside of the Firm. Do not click links or open attachments unless you recognize the sender and know the content is safe.



U.S. Equal Employment Opportunity Commission
Indianapolis District Office
101 West Ohio St Suite 1900 Indianapolis, IN 46204
(463) 999-1240

NOTICE OF CHARGE OF DISCRIMINATION
(This Notice replaces EEOC FORM 131)

12/19/2023

To: Jason Keck

This is notice that a charge of employment discrimination has been filed with the EEOC against your organization by [REDACTED] under: Title VII of the Civil Rights Act of 1964 (Title VII). The circumstances of the alleged discrimination are based on Race, and involve issues of Suspension, Terms/Conditions, Discharge that are alleged to have occurred on or about 12/02/2023.

The Digital Charge System makes investigations and communications with charging parties and respondents more efficient by digitizing charge documents. The charge is available for you to download from the EEOC Respondent Portal, the EEOC's secure online system.

Please follow these instructions to view the charge within ten (10) days of receiving this Notice

1. Access the EEOC's secured online system at [EEOC Respondent Portal](#)
2. Enter this EEOC Charge No.: **24E-2024-00008**
3. Enter this password: **Wjr2tL421**


Once you log into the system, you can view and download the charge, and electronically submit documents to EEOC. The system will also advise you of possible actions or responses and identify your EEOC point of contact for this charge.

If you are unable to log into the EEOC Respondent Portal or have any questions regarding the Digital Charge System, you can send an email to Indianapolis@eeoc.gov.



Preservation of Records Requirement When a Charge has Been Filed

The EEOC regulations require respondents to preserve all payroll and personnel records relevant to the charge until final disposition of the charge or litigation. 29 CFR §1602.14. For more information on your obligation to preserve records, see [https://www.eeoc.gov/eeoc/what-we-do/what-we-do-requirements](#)

ONCE IN PORTAL

 **EEOC Respondent Portal** User Guide || Logout

Charge of Discrimination

-  Changes to the Respondent Information is pending review. x
-  Organization contact information successfully updated. x

Your Organization: [REDACTED]
Your EEOC contact is : MELVIN BURKS , MELVIN.BURKS@EEOC.GOV Update Respondent Information

Required Please provide a statement of your position on the issues covered in the charge, with any supporting documentation by **January 13, 2024**. For guidance on how to best prepare your Position Statement, please review Effective Position Statements, as EEOC has revised its procedures related to the content and release of position statements, effective January 1, 2016.
You may be notified at a later date to respond to a Request for Information

Contacts

+ Add Legal Representative

No records found.

Charge: 460-2023-07779

The charge of employment discrimination that has been filed against your organization by **DeAngela Johnson**, Charge No. 460-2023-07779 is available for you to view. Please click [here to open and view](#) a copy of the charge.

- Statutes and circumstances of alleged discrimination:
- Race, Retaliation

Charge Documents

+ Upload Documents

- 460-2023-07779_NoticeOfChargeOfDiscrimination (Notice of Charge) Dec 14, 2023
- 460-2023-07779_ChargeOfDiscrimination (Charge of Discrimination) Dec 13, 2023

IF YOU IGNORE IT,
IT WILL NOT GO AWAY

EEOC Charge Process In A Nutshell

- Charge within 300 days from discriminatory event
- EEOC sends “Notice of Charge of Discrimination”
 - Option to mediate
 - Requests position statement, documents, and information from employer
- This is the Legal document (many different forms)

EEOC Form 5 (11/04)

CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.

Charge Presented To: FEPA EEOC Agency (ies) Charge No(s) **493-2019-00489**

null and EEOC
State or local Agency, if any

| | | |
|---|--|---|
| <small>Name (indicate Mr., Ms., Mrs.)</small> Ms. Asha D Smith | <small>Home Phone</small> (870) 224-5471 | <small>Year of Birth</small> 1987 |
| <small>Street Address City, State and ZIP Code</small> 130 W Oakland Ave. OFC, Monticello, AR 71655 | | |

Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)

| | | |
|--|--|---|
| <small>Name</small> SONIC DRIVE IN | <small>No. Employees, Members</small> 15 - 100 | <small>Phone No.</small> (870) 367-6476 |
| <small>Street Address City, State and ZIP Code</small> 246 Hwy 425 North, Monticello, AR 71655 | | |

| | | |
|--|---------------------------------------|--------------------------|
| <small>Name</small> | <small>No. Employees, Members</small> | <small>Phone No.</small> |
| <small>Street Address City, State and ZIP Code</small> | | |

DISCRIMINATION BASED ON (Check appropriate box(es))

RACE COLOR SEX RELIGION NATIONAL ORIGIN
 RETALIATION AGE DISABILITY GENETIC INFORMATION
 OTHER (Specify)

DATE(S) DISCRIMINATION TOOK PLACE

| | |
|-------------------------|-----------------------|
| <small>Earliest</small> | <small>Latest</small> |
| 08-13-2018 | 12-15-2018 |

CONTINUING ACTION

THE PARTICULARS ARE (If additional paper is needed, attach extra sheets):

I was hired in October 2017, and promoted to a manager in December 2017. A new store manager (White) came in August 2018. He brought two new employees (all White) with him from his location and they hired two nephews, a son, and their three girlfriends (all White). I trained them on the systems used by my store since they had different systems. I fired a White employee after he refused to take out the trash and cursed me. He was reinstated the next day. My duties as scheduler, hiring, and firing were taken from me. Black employees hours were reduced drastically. I was scheduled to close 13 times in December. I called the hotline twice and reported the racial discrimination on December 12, 2018. I was discharged December 15, 2018.

I was told it was not working out, my services were no longer needed, and to turn in my building keys.

I believe I was subjected to different terms and conditions and had managerial duties removed because of my race (Black) and was discharged in retaliation for reporting racial indiscretions in violation of Title VII of the Civil Rights Act of 1964, as amended.

| | |
|--|---|
| <small>I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.</small> | <small>NOTARY - When necessary for State and Local Agency Requirements</small> |
| <small>I declare under penalty of perjury that the above is true and correct.</small> | <small>I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.</small> |
| <small>Digitally signed by Asha Smith on 02-28-2019 10:20 AM EST</small> | <small>SIGNATURE OF COMPLAINANT</small> |
| | <small>SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (month, day, year)</small> |



EEOC Charge Process In A Nutshell



- EEOC may conduct investigation
 - Presence of counsel for management interviews
 - Not for non-management interviews
- Notice of Right to Sue – 90 days to file suit from receipt of letter

| | | | |
|--|----------------------------|--|--|
| CHARGE OF DISCRIMINATION <small>This form is affected by the Privacy Act of 1974; see Privacy Act Statement before Completing this form.</small> | | Agency FEPA EEOC | CHARGE NUMBER |
| Florida Commission on Human Relations and EEOC and Local Agency, if any | | | |
| Name (Indicate Mr., Ms., or Mrs.) | | Home Telephone () | |
| Street Address | | City, State and Zip Code | County |
| NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME (If more than one list below) | | | |
| Name | | No. of Employees/ Members | Telephone () |
| Street Address | | City, State and Zip Code | |
| CAUSE OF DISCRIMINATION BASED ON (Check appropriate box(es)) | | | Date discrimination took place: |
| <input type="checkbox"/> RACE <input type="checkbox"/> COLOR <input type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input type="checkbox"/> NATIONAL ORIGIN <input type="checkbox"/> AGE <input type="checkbox"/> RETALIATION <input type="checkbox"/> OTHER (Specify) _____ | | | Earliest: Latest: |
| | | | <input type="checkbox"/> Continuing Action |
| THE PARTICULARS ARE (If additional space is needed, attach extra sheet(s)): | | | |
| <input checked="" type="checkbox"/> I want this charge filed with the EEOC and State or Local Agency, if any. I will advise the agency if I change my address or telephone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures. | | NOTARY - (When necessary to meet State and Local Requirements) | |
| I declare under penalty of perjury that the foregoing is true and correct. | | I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief. | |
| Date | Charging Party (Signature) | SIGNATURE OF COMPLAINANT | |
| | | SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE | |
| | | OF _____, 20____ | |

Litigation Holds – What is It

- Pending litigation or a pending government investigation will require preservation of relevant documents and data
- Preservation will often require preservation in native format
- Pending litigation will also require a suspension of all or part of the company's document destruction program

Litigation Holds – When

When is the duty to preserve triggered?

- ❖ When party has notice that evidence is relevant to the litigation (*demand letter, administrative charge, lawsuit, other notices*)

Litigation Holds - What

What must be preserved?

- ❖ All information that may be reasonably calculated to lead to the discovery of admissible evidence
- ❖ Data maintained by outside third parties

Litigation Holds - How

Upon notice of pending litigation send a litigation hold notice:

- Specifically describe documents covered by the hold and the period of time
- Require preservation in format in which it was created and is maintained until and unless told otherwise
- Determine who receives the notice of hold

Litigation Holds - Who

Who must be involved?

- Parties, counsel, IT personnel and other “key players” in litigation to communicate, identify and preserve all potential sources of information
- Develop a method by which to maintain relevant information
- Follow up with key players and re-issue litigation holds if necessary

Investigating Charges

- Investigation techniques (this will be handled by a 3rd party investigator or someone in human resources)
 - Begin by creating a timeline of events
 - Timeline will help organize the alleged crucial events and identify the relevant witnesses that need to be interviewed
- Conducting Interviews
 - Conduct interviews individually outside of the presence of the individual's supervisor, manager, or co-worker
 - You don't want them to simply tow the company line or agree to what others might say
 - Interview all relevant witnesses, including employees of clients, if necessary
- Work with legal counsel
 - Experienced in investigations
 - Protect attorney-client privilege
 - Protect work product privilege

Investigating Charges

- Always document all investigations and interviews! Take notes and ask the following questions:
 - Who? • Who was the alleged victim and harasser? Who witnessed it?
 - What? • What harassing actions were said to have occurred?
 - Where? • Where did the harassment take place? (at work or off site?)
 - When? • When did the harassment take place? (isolated or frequent?)
 - Why? • Why or why not were corrective actions taken?
 - How? • How was the issue resolved/what was the investigation's conclusion?

Investigating Charges

- Preventative and corrective actions can include the following:
 - Physical separation at the workplace*
 - Additional discrimination, retaliation, and harassment training
 - Transfer to different locations*
 - Suspension
 - Termination

*If Complainant is still employed by the Company, they should almost **NEVER** be moved to an unwanted position, location, or schedule after filing a complaint – this can quickly be viewed as retaliation

- Preventative and corrective actions must be reasonably calculated to end harassing conduct and prevent future harassment – simply “going through the motions” won’t cut it!

The Position Statement

<https://www.eeoc.gov/employers/effective-position-statements>

*“At a minimum, it should include **specific, factual** responses to every allegation of the charge, as well as any other facts which you deem relevant for EEOC's consideration. The position statement should clearly explain the Respondent's version of the facts and identify the specific documents and witnesses supporting its position. A well drafted position statement can help EEOC accelerate the investigation and limit requests for additional information.”*



fisherphillips.com

December 13, 2023

VIA EEOC PORTAL

Kindra McNeely
U.S. EEOC
Dallas District Office
207 S. Houston Street, 3rd Floor
Dallas, TX 75202

Re: [REDACTED]
Charge No: 450-2023-05683

Dear Investigator McNeely:

[REDACTED] (misidentified as [REDACTED] in Complainant's Charge) (" [REDACTED]" or the "Company") in the above-referenced matter. This correspondence serves as [REDACTED] Position Statement ("Position Statement") with the U.S. Equal Employment Opportunity Commission ("EEOC") on or about September 17, 2023.¹

As established below, Complainant's Charge should be dismissed. In her Charge, Complainant alleges that she commenced a short-term disability leave on December 8, 2022. And, while this is true, [REDACTED] had made the decision to terminate Complainant's employment *the day before* she filed for and commenced leave due to Complainant's falsification of Company

¹ The submission of this Position Statement is without prejudice to Amedisys' position that various aspects of Complainant's Charge may be time-barred by the applicable statute of limitations and that the EEOC lacks jurisdiction over Complainant's Charge. By submitting this Position Statement, Amedisys is not waiving its objections based on the absence of jurisdiction and the applicable statute of limitations. In addition, Amedisys has not completed its investigation of all the facts relevant to the allegations contained in Complainant's Charge; therefore, this Position Statement is provided with the understanding that Amedisys reserves its right to produce additional evidence of any subsequently discovered facts and that it also may supply additional documentation at a future date. Accordingly, this letter consists only of an initial statement of position with respect to the allegations made by Complainant. It in no way reflects all the possible affirmative defenses that may be available to Amedisys in response to this Charge or in the event of subsequent litigation. Finally, this Position Statement is submitted to the EEOC for the purpose of potential conciliation and/or settlement only; accordingly, the statements and proprietary personnel data contained herein as well as in the enclosures are privileged and confidential.

Fisher & Phillips LLP
Atlanta • Baltimore • Bethesda • Boston • Charlotte • Chicago • Cleveland • Columbia • Columbus • Dallas • Denver • Detroit • Fort Lauderdale • Gulfport
Houston • Irvine • Kansas City • Las Vegas • Los Angeles • Louisville • Memphis • Nashville • New Jersey • New Orleans • New York • Orlando • Philadelphia
Phoenix • Pittsburgh • Portland • Sacramento • San Diego • San Francisco • Seattle • Tampa • Washington, DC • Woodland Hills

FP 48635886.1

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10 South Wacker Drive
Suite 3450
Chicago, IL 60606
(312) 346-8061 Tel
(312) 346-3179 Fax
Writer's Direct Dial:
312-580-7804
Writer's E-mail:
jkeck@fisherphillips.com



III. BACKGROUND REGARDING COMPLAINANT'S EMPLOYMENT

The facts here are simple. [REDACTED] hired Complainant on May 31, 2022, to work as an Account Executive. In that role, Complainant was responsible for, among other things, establishing and developing business relationships by appropriately marketing [REDACTED]'s referral sources.

In late November 2022, Complainant notified her direct supervisor, Area Sales Manager, [REDACTED] that she had a kidney stone. At that time, Complainant indicated that she would, at some point, require surgery² but that she intended to continue to work in the interim.

On December 1, 2022, [REDACTED] ([REDACTED]), called Employee Relations Consultant, [REDACTED] to discuss Complainant's performance and behavior. To obtain more information, on December 2, 2022, [REDACTED] spoke with [REDACTED] who relayed to [REDACTED] serious concerns regarding Complainant's performance. Specifically, [REDACTED] outlined how [REDACTED] had, among other things: (1) cancelled three ride-along meetings; (2) documented calls with referral sources but, when questioned, was unable to offer any details about those marketing efforts (i.e., suggesting the documented sales calls never occurred or did not occur as documented); and (3) documented calls and meetings with

² As this Agency is likely aware, removal of kidney stones is in most circumstances a relatively minor outpatient surgery.

FP 48635886.1

U.S. EEOC
December 13, 2023
Page 6

various individuals at one of [REDACTED] referral sources but when [REDACTED] accompanied Complainant on visits to that referral source, Complainant had not met anyone, introduced herself for the first time, and generally had no idea where to go (i.e., suggesting, again, that her previously logged activities did not occur or did not occur as documented).

On December 6 or 7, 2022, when [REDACTED] questioned Complainant about the apparent inconsistency in her documented calls and activities, Complainant became defensive and argumentative. At one point, Complainant raised her voice, slammed papers down, called [REDACTED] a "terrible teacher" and a "liar" while pointing her finger aggressively at her. And, on December 7, 2022, [REDACTED] confirmed with certain of Complainant's documented account representatives that they had never met Complainant despite her sales logs indicating otherwise. Thus, with support from [REDACTED] decided to terminate Complainant's employment that same day (i.e., December 7, 2022) for violation of [REDACTED] Critical Offense Policy for falsification of documentation. See Termination Email and draft Separation Form, attached at Exhibit F.

General Themes

- Regard the administrative proceeding as a useful opportunity, prior to commencement of formal litigation, to gather facts and prepare defenses while memories are fresh and employee-witnesses are available
- Respond with a view toward litigation in court
- Respond specifically to the allegations

Objectives in an EEOC Investigation

- Obtaining a “No Cause” determination
- Dissuading employee from filing suit
 - When told that they don’t have a case by an independent third party, many employees will drop the matter
- If suit is filed, you’re still able to defend



Judgment Calls

- Think about what you submit to the EEOC
- All information and every document given to the EEOC is available to the plaintiff's lawyer



How Much Information Do I Provide? Two Theories

- Theory No. 1 – Act as if you have the right to remain silent -- tell the EEOC you did not discriminate and provide no additional information.
 - Disadvantages:
 - more likely to have an on-site investigation;
 - more likely to have a reasonable cause finding
 - more likely to irritate the EEOC toward your company
 - more likely to have the EEOC file suit on the employee's behalf
 - Advantages:
 - Less likely to provide an inconsistent position that can be used against you later

- Theory No. 2 – Provide a detailed position statement
 - Disadvantages
 - Increased likelihood of inconsistent positions during litigation
 - Educating plaintiff's counsel
 - Unintentionally making admissions that you violated the law
 - Advantages
 - Increased likelihood of dismissal of charge
 - Increased likelihood that neither the EEOC nor the employee will file suit

What To Include In the Position Statement

- Information about the company
- Employee's date of hire
- Probationary v. regular employee
- Employee's position, including all reason(s) for adverse action
- At-will employment status
- Signed receipt for handbook



What To Include In the Position Statement

- Information regarding posting of company policies/rules violated
- Documentation regarding negative counseling/disciplinary action during course of employment
- Copies of policies/rules violated related to charge
- Receipt indicating knowledge of policies/rules violated





What To Include In the Position Statement



- Background information leading to the action taken by the company
- Admissions by employee about the misconduct
- Employees who have been disciplined for engaging in similar actions outside of the protected class
- Brief summary and analysis of relevant law
- Evidence that complainant was hired, disciplined, or terminated by someone within his or her protected class.
- COMMON SENSE ARGUMENTS

Record of Disciplinary Action

| | |
|---------------|-------------------|
| Employee Name | Employee Title |
| Manager Name | Manager Title |
| Employee Base | Incident Date |
| Incident Date | Incident Location |

Description of the incident(s) occurred:

Witnesses to the incident (if applicable):

Notes of those in attendance at current disciplinary action meeting:

Consent to disciplinary action to be taken
 Verbal Written Probation Suspension Other (explain below)

Off in position, privileges, _____, and code _____

Goals to be Achieved:

Consequences for failure to improve performance or correct behavior:

Other discussions or meetings on this subject, whether oral or written:

- If necessary, explain why actions taken were different for different employees
 - Different supervisors
 - Different business circumstances
- Don't ignore an issue (discriminatory wage issues)

What Not To Do With The Position Statement

- **DO NOT HAVE THE WRONG PERSON DRAFT YOUR POSITION STATEMENT!**
- Ensure the author is knowledgeable of the facts and the law
 - Legal counsel may be in the best position to do this
- Do not waive your factual and legal defenses



After the Position Statement

- The EEOC may issue a request for records which, in the context of the case, are not relevant
- Possible option to provide the relevant documents requested, which will hopefully result in the EEOC not needing the irrelevant documents
 - Consult with legal counsel to determine when objections are appropriate
- If the EEOC still wants such information, it will (but may not) ask for it a second time.
- Can object if warranted

RP

RODNEY PHILLIPS <RODNEY.PHILLIPS@EEOC.GOV>

Keck, Jason

6/13/2019

[REDACTED] (EEOC Charge No.: 493-2019-00489)

 You forwarded this message on 6/13/2019 4:53 PM.

Dear Mr. Keck:

We are in receipt of your April 11, 2019, response to the above referenced charge. However, the following additional information/documentation is necessary to the investigation:

1. Submit a copy of the employees' work schedules by month to show hours scheduled and hours worked for the period May – December 2018. Identify the employees by race.
2. Submit copies of all of Charging Party's hotline complaints in audio (if possible) or print form. Be sure to submit when complaint was made and what actions were taken by the hotline recipient to include how, when, and to whom at Respondent was notified.

Your cooperation in submitting this additional information and/or documentation no later than June 27, 2019, will be appreciated. Finally, this is also to advise that an on-site investigation or a fact finding conference may be scheduled at a later date.

Rodney Phillips

Sr. Federal Investigator

Equal Employment Opportunity Commission

820 Louisiana, Suite 200

The Position Statement as Evidence

- Evidence for the Company
 - Consistent explanations
 - Witness statements
 - Identifying admissions by Complainant
- Evidence against the Company
 - Admissions by the Company
 - Inconsistent positions can be evidence of pretext
 - Keep in mind unemployment hearings, correspondence to the Department of Labor, and statements made to other supervisors/employees
 - Don't send someone off to bind the company who doesn't know what he/she is doing

Outcomes

- No Probable Cause
 - Rare
- Conciliation
 - Signals Potential Problem
- Right to Sue
 - 90 Days





NEGOTIATED SETTLEMENT AGREEMENT

1. The following Agreement refers to charge number 493-2019-00489, on file with the Equal Employment Opportunity Commission (EEOC) under Title VII of the Civil Rights Act of 1964, as amended.
2. In exchange for satisfactory fulfillment by Respondent of the promises contained in paragraph (3) of this Agreement, the Charging Party agrees not to institute a lawsuit with respect to the above referenced charge against [REDACTED] ("Respondent").
3. In exchange for the promises of [REDACTED] contained in paragraph (2) of this Agreement, Respondent agrees to:
 - Pay Charging Party \$7,500.00;
 - Change Charging Party's termination to a resignation in its computer system;
 - Provide Charging Party a neutral letter of reference listing only the dates of her employment and title
4. Respondent agrees to provide Title VII training focusing on race issues and reporting procedures to managers and employees within 90 days. Respondent will submit to the EEOC a copy of training materials covered and a sign-in roster of those in attendance.
5. It is understood that this agreement does not constitute an admission by Respondent of any violation of the aforementioned statute(s).
6. The Respondent agrees to provide written notice to the Director of the Little Rock Area Office within 30 days of satisfying the obligations specified at paragraph (3) of this Agreement.
7. It is understood that neither party will publicize the fact of this settlement or its terms. All terms of this Agreement will be kept confidential by both Charging Party and Respondent.
8. The parties agree that this Agreement may be specifically enforced in court and may be used as evidence in a subsequent proceeding in which any of the parties allege a breach of this Agreement. EEOC agrees to give Respondent notice and opportunity to cure any alleged compliance violations prior to bringing a suit to enforce.

10/07/2019
Date

Date

[REDACTED]

[REDACTED] Charging Party



NEGOTIATED SETTLEMENT AGREEMENT

1. The following Agreement refers to charge number 493-2019-00489, on file with the Equal Employment Opportunity Commission (EEOC) under Title VII of the Civil Rights Act of 1964, as amended.
2. In exchange for satisfactory fulfillment by Respondent of the promises contained in paragraph (3) of this Agreement, the Charging Party agrees not to institute a lawsuit with respect to the above referenced charge against Sonic Drive-In of Monticello, A.R, L.L.C. ("Respondent").
3. In exchange for the promises of Asha D. Smith., contained in paragraph (2) of this Agreement, Respondent agrees to:
 - Pay Charging Party \$7,500.00;
 - Change Charging Party's termination to a resignation in its computer system;
 - Provide Charging Party a neutral letter of reference listing only the dates of her employment and title
4. Respondent agrees to provide Title VII training focusing on race issues and reporting procedures to managers and employees within 90 days. Respondent will submit to the EEOC a copy of training materials covered and a sign-in roster of those in attendance.
5. It is understood that this agreement does not constitute an admission by Respondent of any violation of the aforementioned statute(s).
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8. The parties agree that this Agreement may be specifically enforced in court and may be used as evidence in a subsequent proceeding in which any of the parties allege a breach of this Agreement. EEOC agrees to give Respondent notice and opportunity to cure any alleged compliance violations prior to bringing a suit to enforce.

10/07/2019
Date

Date

Reed E. Dattiff

On Behalf of Respondent, Sonic Drive-In of
Monticello, A.R, L.L.C.

Asha D. Smith, Charging Party



DISMISSAL AND NOTICE OF RIGHTS

To: Richard Celler, Esq.
CELLER LEGAL, P.A.
C/O Melva Dorsey
10368 W. State Rd 84, Ste. 103
Davie, FL 33324

From: Tampa Field Office
501 East Polk Street
Room 1000
Tampa, FL 33602



On behalf of person(s) aggrieved whose identity is CONFIDENTIAL (29 CFR §1601.7(a))

Table with 3 columns: EEOC Charge No., EEOC Representative, Telephone No.
511-2018-02958, Christopher S. Griffin, Investigator, (813) 202-7936

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:

- List of reasons for closing file with checkboxes:
- The facts alleged in the charge fail to state a claim...
- Your allegations did not involve a disability...
- The Respondent employs less than the required number...
- Your charge was not timely filed...
- The EEOC issues the following determination...
- The EEOC has adopted the findings of the state or local...
- [X] Other (briefly state) Charging Party Already Filed Claim in State Court

- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit must be filed WITHIN 90 DAYS of your receipt of this notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.

On behalf of the Commission

Signature of Evangeline Hawthorne, Director

11/14/19 (Date Mailed)

Enclosures(s)

cc: Jason D. Keck
FISHER PHILLIPS, LLP
10 S. Wacker Drive, Ste. 3450
Chicago, IL 60606

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Jason D Keck
Phone: (312) 580-7804
Email: jkeck@fisherphillips.com



Final Questions



Jason D Keck

Phone: (312) 580-7804

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Thank You



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