

363A.33 COURT ACTIONS, SUITS BY PRIVATE PARTIES, INTERVENTION, DISTRICT COURT JURISDICTION, ATTORNEY'S FEES, AND COSTS.

Subdivision 1. **Court actions, suits by private parties, intervention.** The commissioner or a person may bring a civil action seeking redress for an unfair discriminatory practice directly to district court. In addition, a person may bring a civil action:

(1) within 45 days after receipt of notice that the commissioner has dismissed a charge because it is frivolous or without merit, because the charging party has failed to provide required information, because the commissioner has determined that further use of department resources is not warranted, or because the commissioner has determined that there is no probable cause to credit the allegations contained in a charge filed with the commissioner;

(2) within 45 days after receipt of notice that the commissioner has reaffirmed a determination of no probable cause if the charging party requested a reconsideration of the no probable cause determination, or has decided not to reopen a dismissed case that the charging party has asked to be reopened; or

(3) after 45 days from the filing of a charge pursuant to section 363A.28, subdivision 1, if a hearing has not been held pursuant to section 363A.29 or if the commissioner has not entered into a conciliation agreement to which the charging party is a signator. The charging party shall notify the commissioner of an intention to bring a civil action, which shall be commenced within 90 days of giving the notice.

For purposes of clauses (1) and (2), receipt of notice is presumed to be five days from the date of service by mail of the written notice.

Subd. 2. **Treatment of separate issues in same charge.** If the commissioner has issued both probable cause and no probable cause determinations on separate issues in the same charge, the charging party may, if a hearing is held, require that all matters be heard at the hearing or may bring a civil action for the no probable cause charges at the same time as the probable cause charges under the rules and time frames that govern the probable cause charges.

Subd. 3. **Summons and complaints in a civil action.** A charging party bringing a civil action shall mail by registered or certified mail a copy of the summons and complaint to the commissioner, and upon their receipt the commissioner shall terminate all proceedings in the department relating to the charge. No charge shall be filed or reinstituted with the commissioner after a civil action relating to the same unfair discriminatory practice has been brought unless the civil action has been dismissed without prejudice.

Subd. 4. **Court-appointed attorney for complaining party and costs.** Upon application by the complaining party to the district court at a special term and under circumstances the court deems just, the court may appoint an attorney for the person and may authorize the commencement of the action without payment of fees, costs, or security.

Subd. 5. **Department as intervenor in civil action.** Upon timely application, the court may permit the department to intervene in a civil action brought pursuant to this section upon certification that the case is of general public importance.

Subd. 6. **District court jurisdiction.** Any action brought pursuant to this section shall be filed in the district court of the county wherein the unlawful discriminatory practice is alleged to have been committed or where the respondent resides or has a principal place of business.

Any action brought pursuant to this chapter shall be heard and determined by a judge sitting without a jury.

If the court finds that the respondent has engaged in an unfair discriminatory practice, it shall issue an order directing appropriate relief as provided by section 363A.29, subdivisions 3 to 6.

When the court issues an order providing for payment to the state of a civil penalty pursuant to section 363A.29, subdivisions 3 to 6, it shall serve a copy of that order upon the attorney general at the same time as it makes service upon the parties.

Subd. 7. **Attorney's fees and costs.** In any action or proceeding brought pursuant to this section the court, in its discretion, may allow the prevailing party a reasonable attorney's fee as part of the costs. In any case brought by the department, the court shall order a respondent who is determined to have engaged in an unfair discriminatory practice to reimburse the department and the attorney general for all appropriate litigation and court costs expended in preparing for and conducting the hearing, unless payment of the costs would impose a financial hardship on the respondent. Appropriate costs include but are not limited to the costs of services rendered by the attorney general, private attorneys if engaged by the department, court costs, court reporters, and expert witnesses as well as the costs of transcripts and other necessary supplies and materials.

History: 1973 c 729 s 18; 1976 c 301 s 4; 1977 c 455 s 85; 1978 c 793 s 74; 1981 c 330 s 6; 1984 c 567 s 8,9; 1986 c 444; 1988 c 660 s 12,13; 1989 c 280 s 19; 1992 c 513 art 9 s 35,36