

EMPLOYMENT LITIGATION UPDATE AND TRIAL CONCERNS

Richard M. Mitchell, Esq.



A Practical Guide to Managing Workplace Risks and Rewards

EEOC Mission Statement

• The U.S. Equal Employment Opportunity Commission (EEOC) is responsible for enforcing federal laws that make it illegal to discriminate against a job applicant or an employee because of the person's race, color, religion, sex (including pregnancy), national origin, age (40 or older), disability or genetic information. It is also illegal to discriminate against a person because the person complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit.





Hot Button Issues

- Sexual Orientation and Gender Identity
 - These are two different issues.
- Hostile Workplace Claims
- EEOC Guidelines
- Joint Employer Status



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A Post Election World

• The Times They are a' Changing.





Maddin Hauser Roth & Heller, P.C. - maddinhauser.com 28400 Northwestern Hwy., Southfield, MI 48034 | p (248) 354-4030 | f (248) 354-1422

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Where is the Courthouse Door?

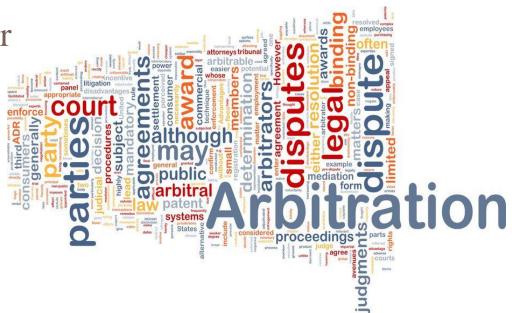
- Federal Court
 - Exhaustion of Administrative Remedies
- State Court
- Attorney Fees
- A Little Discrimination Goes a Long Way



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Arbitration

- Not Necessarily Less Costly
- Not Necessarily Faster
- AAA Rules
- Challenges to
 Arbitration Clauses







Before Litigation Even Starts

- Preserve all documents and data
- Save/Isolate Emails and Hard Drives
- Spoliation Presumption that you have something to hide





Admissibility of Evidence at Trial

- The EEOC Determination
- The Underlying Investigation





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Resolution

- Trial very public
- Settlement
 - Confidentiality
 - Public Consent Decree
- Remedial measures beyond money

