

1400.7050 SANCTIONS IN DISCRIMINATION CASES.

Subpart 1. **Precomplaint procedure.** If, at any time prior to the issuance of a complaint in any matter pending before the Minnesota Department of Human Rights, the charging party or the respondent believes that the other is intentionally and frivolously delaying any precomplaint proceedings, it may petition the chief judge for an order imposing sanctions. For the purpose of this subpart, a respondent is any person against whom a charge has been filed. The sanctions and the procedures are as follows:

A. A party requesting the imposition of sanctions shall file a petition with the chief judge which shall include proof that a copy of the petition has been served on the other party.

B. A petition for the imposition of sanctions shall state, with specificity, the acts of the other party which are alleged to be intentional and frivolous delay; the sanctions requested; whether an oral hearing is requested; and shall include sworn affidavits of persons having first-hand knowledge of the alleged acts.

C. The party against whom sanctions are sought shall have ten working days following receipt of the petition to file an objection to the petition. The objection shall respond to each alleged act of delay with specificity; shall include sworn affidavits of persons having first-hand knowledge of the alleged acts; and shall state whether an oral hearing is requested. Objections are timely filed only if received by the office at or before 4:30 p.m. of the tenth working day. The objection shall include proof that it was served on the other party.

D. Upon receipt of a petition and objection under this part, the chief judge shall either determine the matter or assign it to a judge for determination. If either party has requested an oral hearing, it shall be conducted no earlier than ten calendar days following the receipt of a notice of the hearing.

E. Intentional and frivolous delay occurs when a party deliberately delays proceedings for immaterial, meritless, trivial, or unjustifiable reasons. In determining whether intentional and frivolous delay has occurred, the judge shall also give consideration to the number of issues and amount of damages in controversy, any pattern of similar acts by the party, and effects of the delay.

F. If it is determined that intentional and frivolous delay has occurred, the judge shall enter an order requiring the offending party to cease and desist from the act; compelling cooperation in all phases of the proceedings; or imposing any other sanctions, other than fines, deemed necessary to compel expeditious cooperation and completion of the investigation.

G. In the event the investigation results in a finding of probable cause and issuance of a complaint, the determination of intentional and frivolous delay and

compliance with any orders issued under item F shall be taken into consideration in awarding damages and attorney's fees, where applicable.

Subp. 2. **Procedure during proceedings.** If during the pendency of a contested case before the office either the charging party or the respondent believe that the other is intentionally and frivolously delaying the proceedings, they may bring a motion before the judge by following the procedures in part 1400.6600. If the judge determines, using the criteria in subpart 1, item E, that intentional and frivolous delay has occurred, the judge shall issue an order containing any of the following:

- A. that the party shall cease and desist from the acts;
- B. compelling cooperation during further pendency of the case;
- C. dismissing any or all charges or defenses to charges, whichever may be appropriate;
- D. foreclosing the testimony of specified witnesses or the presentation of evidence on specified issues;
- E. that the delay will be taken into consideration in awarding damages or attorney's fees; or
- F. any sanctions available in civil cases in the district courts of Minnesota.

Statutory Authority: *MS s 14.06; 14.131; 14.51; 363.06; 363A.28*

History: *9 SR 2276*

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