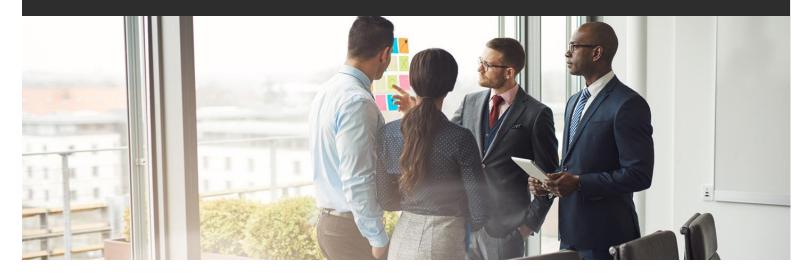


Alert | Labor & Employment



October 2021

To Settle or Not to Settle? The Question Just Got Harder in New York

Starting Oct. 12, there will be no more confidential settlements in New York. Citing a "vested interest" in the ultimate resolution of all cases before it, the New York Division of Human Rights (DHR) announced on Oct. 1 that it will no longer issue Commissioner's Orders discontinuing complaints after private settlements are reached in cases filed with the DHR, even when the complainant has been represented by private counsel.

Contrary to prior practice, all settlements now will be subject to review by the DHR before a case is closed. Previously, review was only conducted in cases where the complainant did not have private counsel, but rather was represented by a DHR attorney. Under the new standard, with regard to complaints filed on or after Oct. 12, 2021, if a complainant's attorney seeks a discontinuance indicating a private settlement has been reached, the discontinuance will be denied. To ensure that the terms of any settlement reached comply with the DHR's basic standards and do not violate public policy, parties may either settle the matter through a DHR Order after entering a stipulation setting forth the terms of the settlement or proceed through the DHR's public hearing process.

The DHR has indicated these changes are being made to ensure New Yorkers have greater insight into the results of complaints and to allow the DHR to monitor all settlements to confirm they comply with the intent of the Human Rights Law. However, submitting the settlement can not only jeopardize the confidentiality of its terms but potentially create the need for a second round of negotiations, this time with the DHR. Going forward, as companies consider settlement in DHR complaints, resolution between



parties could become more difficult, as settlement terms and amounts will be subject to agency review and publicly disclosed.

Authors

This GT Alert was prepared by:

- Jerrold F. Goldberg | +1 212.801.9209 | goldbergj@gtlaw.com
- Nicholas A. Corsano | +1 212.801.6827 | corsanon@gtlaw.com

Albany. Amsterdam. Atlanta. Austin. Boston. Chicago. Dallas. Delaware. Denver. Fort Lauderdale. Germany. Houston. Las Vegas. London. Los Angeles. Mexico City. Miami. Milan. Minneapolis. New Jersey. New York. Northern Virginia. Orange County. Orlando. Philadelphia. Phoenix. Sacramento. Salt Lake City. San Francisco. Seoul. Shanghai. Silicon Valley. Tallahassee. Tampa. Tel Aviv. Tokyo. Warsaw. Washington, D.C.. West Palm Beach. Westchester County.

This Greenberg Traurig Alert is issued for informational purposes only and is not intended to be construed or used as general legal advice nor as a solicitation of any type. Please contact the author(s) or your Greenberg Traurig contact if you have questions regarding the currency of this information. The hiring of a lawyer is an important decision. Before you decide, ask for written information about the lawyer's legal qualifications and experience. Greenberg Traurig is a service mark and trade name of Greenberg Traurig, LLP and Greenberg Traurig, P.A. ¬Greenberg Traurig's Berlin office is operated by Greenberg Traurig Germany, an affiliate of Greenberg Traurig, P.A. and Greenberg Traurig, LLP. *Operates as a separate UK registered legal entity. +Greenberg Traurig's Mexico City office is operated by Greenberg Traurig, S.C., an affiliate of Greenberg Traurig, P.A. and Greenberg Traurig, LLP. *Greenberg Traurig's Milan office is operated by Greenberg Traurig Santa Maria, an affiliate of Greenberg Traurig, P.A. and Greenberg Traurig, LLP. *Operates as Greenberg Traurig LLP Foreign Legal Consultant Office. *Greenberg Traurig's Tel Aviv office is a branch of Greenberg Traurig, P.A., Florida, USA. **Greenberg Traurig's Tokyo Office is operated by GT Tokyo Horitsu Jimusho and Greenberg Traurig Gaikokuhojimubengoshi Jimusho, affiliates of Greenberg Traurig, P.A. and Greenberg Traurig, LLP. *Greenberg Traurig's Warsaw office is operated by GREENBERG TRAURIG Nowakowska-Zimoch Wysokiński sp.k., an affiliate of Greenberg Traurig, P.A. and Greenberg Traurig, P.A. Images in this advertisement do not depict Greenberg Traurig attorneys, clients, staff or facilities. No aspect of this advertisement has been approved by the Supreme Court of New Jersey. ©2021 Greenberg Traurig, LLP. All rights reserved.

© 2021 Greenberg Traurig, LLP www.gtlaw.com | 2