



**FCRA WAGE PROJECT
[ALL-IN-ONE DOCUMENT]**

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CHAPTER: 0 WELCOME TO FLORIDA!

AUTHOR: *unknown*

ITEMS: --



0-0 | WELCOME TO FLORIDA!

The Florida Civil Rights Act (FCRA) (http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=Ch0760/ch0760.htm) prohibits discrimination in employment on the basis of sex. Women can bring the following claims under the FCRA including but not limited to:

- (1) Unequal Pay
- (2) Disparate Impact
- (3) Disparate Treatment
- (4) Sexual Harassment
- (5) Failure to Hire
- (6) Wrongfully Denied Promotion
- (7) Wrongful Termination
- (8) Retaliation

Continue to learn more information about your rights!!!

(unknown authors)



0-1 | HAVE I BEEN DISCRIMINATED AGAINST? TAKE THE QUIZ!

What Does the law say?

Where do I go from here?

Resources and Statistics

Real Life Stories

(unknown authors)



0-2 | WHAT DOES THE FLORIDA LAW SAY?

What Does the law say?

What types of discrimination Does the law cover?

How do I file a claim?

What can I get if I win?

What if I don't want to sue?

(Link to IDEAS FOR CHANGE)

(unknown authors)



FCRA WAGE PROJECT

CHAPTER: 1 WHAT DOES THE LAW SAY?

AUTHOR: *unknown*

ITEMS: A through M



1-0 | CHAPTER INTRO WHAT DOES THE LAW SAY?

- a. Where is the law regarding sex discrimination in employment in Florida found?
- b. To whom Does the FCRA apply?
- c. Under the FCRA, what is illegal?
- d. What is an "employer" this law?
- e. What is an "employee" under this law?
- f. Is there a federal law about sex discrimination?
- g. How Does the state law compare with federal in terms of coverage?
- h. Is it ever okay for my employer to treat or impact women differently because of their sex?
- i. What other employer exceptions exist under the FCRA?
- j. What could my employer do to deny my allegations, and how do I respond to their denials?
- k. Does it matter when the discrimination occurred?
- l. What options do I have if I my employer has fewer than fifteen employees?
- m. Who enforces the law?

(unknown authors)



1-A | WHERE IS THE LAW REGARDING SEX DISCRIMINATION IN EMPLOYMENT IN FLORIDA FOUND?

The Florida Civil Rights Act of 1992 (FCRA)¹ (http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=Ch0760/ch0760.htm) is the controlling anti-discrimination law in the state of Florida.

(unknown authors)

Footnotes

¹ Fla. Stat. Ann. §§760.01-760.11 (West 2004)



1-B | TO WHOM DOES THE FCRA APPLY?

It applies to employers, employment agencies, labor unions, organizations controlling job training and apprenticeship, and licensing/certification organizations.²

It Does not apply to religious organizations, educational institutions, or societies in which employment opportunities are conditioned upon membership within the organization or agreement with its beliefs.³

(unknown authors)

Footnotes

² See generally §760.10.

³ Fla. Stat. Ann. §760.10(9).



1-C | UNDER THE FCRA, WHAT IS ILLEGAL?

It is unlawful to discharge, fail or refuse to hire, or discriminate in "compensation, terms, conditions, or privileges of employment" based on a person's race, color, religion, sex, national origin, handicap, or marital status. Segregating or classifying employees or job applicants in such a manner that would be detrimental to their employment status or opportunities is also unlawful.⁴

(unknown authors)

Footnotes

⁴ See generally Fla. Stat. Ann. §760.10.



1-D | WHAT IS AN "EMPLOYER" THIS LAW?

An employer is any person employing 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding year and any agent of such a person.⁵

(unknown authors)

Footnotes

⁵ Fla. Stat. Ann. §760.02(7).



1-E | WHAT IS AN "EMPLOYEE" UNDER THIS LAW?

An employee is not specifically defined under the FCRA (http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=Ch0760/ch0760.htm), but anyone who feels that a violation of the law has been committed against them can file a complaint with the Florida Commission on Human Relations (see question m. below).⁶

(unknown authors)

Footnotes

⁶ Fla. Stat. Ann. §760.11(1).



1-F | IS THERE A FEDERAL LAW ABOUT SEX DISCRIMINATION?

Yes — Title VII of the Civil Rights Act of 1964.⁷ (see Federal Law section).

(unknown authors)

Footnotes

⁷ 42 U.S.C. §2000e.



1-G | HOW DOES THE STATE LAW COMPARE WITH FEDERAL IN TERMS OF COVERAGE?

The statute is based in large part on Title VII of the Civil Rights Act of 1964.⁸ The wording and provisions of the two laws are similar in many places, and both laws create administrative agencies to address claims brought under them. However, Title VII is considerably longer and has more specific procedural aspects. Furthermore, Title VII has a filing deadline of only 300 days, whereas the FCRA (http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=Ch0760/ch0760.htm) has a 365 day deadline.⁹

(unknown authors)

Footnotes

⁸ *Woodham v. Blue Cross and Blue Shield of Florida, Inc.*, 829 So. 2d 891, 895 (Fla. 2002).

⁹ Fla. Stat. Ann. §760.11(1).

1-H | IS IT EVER OKAY FOR MY EMPLOYER TO TREAT OR IMPACT WOMEN DIFFERENTLY BECAUSE OF THEIR SEX?

If a person's race, color, religion, sex, national origin, handicap, or marital status is a bona fide occupational qualification (BFOQ) "reasonably necessary for the performance of the particular employment" of the aggrieved person, it is not unlawful for the employer to take any action based on that characteristic.¹⁰

(unknown authors)

Footnotes

¹⁰ Fla. Stat. Ann. §760.10(8)(a).



1-I | WHAT OTHER EMPLOYER EXCEPTIONS EXIST UNDER THE FCRA?

Seniority systems, pensions, benefit plans, and “piece-rate” pay systems (in which an employee is paid by the quantity or quality of his/her work) may be used by an employer, as long as it is not designed to evade the Act’s purposes.^{[11](#)} Discrimination on the basis of marital status is lawful if such status is prohibited by an anti-nepotism policy.^{[12](#)}

(unknown authors)

Footnotes

¹¹ Fla. Stat. Ann. §760.10(8)(b).

¹² Fla. Stat. Ann. §760.10(8)(d).



1-J | WHAT COULD MY EMPLOYER DO TO DENY MY ALLEGATIONS, AND HOW DO I RESPOND TO THEIR DENIALS?

Because the FCRA (http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=Ch0760/ch0760.htm) is based on Title VII, Florida courts have ruled that the state legislature intended the two acts to be interpreted similarly.¹³ Thus, federal case law construing Title VII is binding on Florida courts.¹⁴ But the typical federal burden-shifting method is generally used: once you establish your case, your employer must state a legitimate, nondiscriminatory reason for your discharge. You must then prove that the reason your employer offers is a pretext for the real reason you were fired.¹⁵ See the Federal Law page for more details.

(unknown authors)

Footnotes

¹³ *Russell v. KSL Hotel Corp.*, 887 So.2d 372, 377. (Fla. 3rd Dist. App. 2004)

¹⁴ See *Resley v. Ritz-Carlton Hotel Co.*, 989 F. Supp. 1442, 1446-1447 (M.D. Fla. 1997)

¹⁵ *Russell*, 887 So.2d at 379.

1-K | DOES IT MATTER WHEN THE DISCRIMINATION OCCURRED?

You must file a complaint within 365 days of the alleged violation.^{[16](#)}

(unknown authors)

Footnotes

¹⁶ Fla. Stat. Ann. §760.11(1).



1-L | WHAT OPTIONS DO I HAVE IF I MY EMPLOYER HAS FEWER THAN FIFTEEN EMPLOYEES?

While the FCRA (http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=Ch0760/ch0760.htm) only covers employers who have fifteen or more employees, some cities have ordinances which cover employers with fewer workers. (See the Local Ordinances section) ([link to Ideas For Change](#))

(unknown authors)

1-M | WHO ENFORCES THE LAW?

The Florida Commission on Human Relations (FCHR) (<http://fchr.state.fl.us/>) is responsible for enforcing the FCRA (http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=Ch0760/ch0760.htm).¹⁷

(unknown authors)

Footnotes

¹⁷ Fla. Stat. Ann. §760.06 (5).

FCRA WAGE PROJECT

CHAPTER: 2 WHAT TYPES OF DISCRIMINATION ARE COVERED
UNDER THE LAW?

AUTHOR: *unknown*

ITEMS: --



2-0 | CHAPTER INTRO - WHAT TYPES OF DISCRIMINATION ARE COVERED UNDER THE LAW?

UNEQUAL PAY:

I don't think I'm being paid fairly compared to men doing the same job. (Link to Equal Pay claims)

DISPARATE IMPACT:

I think my employer's policies disadvantage women more than men. (Link to Disparate Impact claims) (Note: this is discussed under Federal Law)

DISPARATE TREATMENT:

I think my employer treats women differently than men. (Link to Disparate Treatment claims) (Note: this is discussed under Federal Law)

SEXUAL HARASSMENT:

I think I am being sexually harassed at work. (Link to Sexual Harassment claims)

PREGNANCY DISCRIMINATION:

I think my employer is discriminating against me because I am pregnant. (Link to Pregnancy Discrimination claims)

DISCRIMINATORY HIRING:

I did not get the job I applied for and I think it's because I'm a woman. (Link to Discriminatory Hiring claims)

WRONGFULLY DENIED PROMOTION:

I think I didn't get the promotion because I am a woman. (Link to Wrongfully Denied Promotion claims)

WRONGFUL TERMINATION:

I just got fired from my job, and I think it's because I'm a woman. (Link to Discriminatory Firing claims)

RETALIATION:

I think my employer fired me because I filed a complaint of sex discrimination. (Link to Reprisal/Retaliation claims)

(unknown authors)



FCRA WAGE PROJECT

CHAPTER: 3 EQUAL PAY CLAIMS

AUTHOR: *unknown*

ITEMS: A through H



3-0 | CHAPTER INTRO - EQUAL PAY CLAIMS

I don't think I'm being paid fairly compared to men doing the same job.

- a. How do I prove that I am not receiving equal pay for equal work?
- b. What Does pay discrimination look like?
- c. What laws protect me from receiving unequal pay for equal work?
- d. How do I prove that my work requires equal skill, effort, and responsibility as my coworker or that I have a "like or comparable" position?
- e. Must I prove that my employer intentionally paid me less because I am a female?
- f. What could my employer do to deny my allegations, and how do I respond to its denials?
- g. Does it matter when the discrimination occurred? (new window to WDTLS)
- h. What options do I have if I my employer has fewer than fifteen employees? (new window to WDTLS)
- i. If I prove my Equal Pay claim, what kind of remedies am I entitled to? (new window to Remedies)

(unknown authors)



3-A | HOW DO I PROVE THAT I AM NOT RECEIVING EQUAL PAY FOR EQUAL WORK?

To demonstrate that you are being paid unequally, you must show that:

1. Your employer pays different wages to employees of opposite sexes;
2. For equal work on jobs the performance of which requires equal skill, effort, and responsibility; and
3. are performed under similar working conditions.^{[18](#)}

(unknown authors)

Footnotes

¹⁸ See Meeks v. Computer Associates International, 15 F.3d 1013, 1018 (11th Cir. 1994)



3-B | WHAT DOES PAY DISCRIMINATION LOOK LIKE?

An example of this would be: a man working at a position similar to yours is getting paid more per hour than you, even though he has the same level of education or experience.

(unknown authors)



3-C | WHAT LAWS PROTECT ME FROM RECEIVING UNEQUAL PAY FOR EQUAL WORK?

The Florida Civil Rights Act of 1992 (http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=Ch0760/ch0760.htm) and the Florida Labor Code prohibit an employer from paying you less on the basis of sex.¹⁹ Title VII and the Equal Pay Act also protect you (see Federal Law section).

(unknown authors)

Footnotes

¹⁹ Fla. Stat. Ann. §760.10(1)(a) and §448.07 (West 2004)



3-D | HOW DO I PROVE THAT MY WORK REQUIRES EQUAL SKILL, EFFORT, AND RESPONSIBILITY AS MY COWORKER OR THAT I HAVE "LIKE OR COMPARABLE" POSITION?

Among the factors examined are how much other workers doing the same or similar work as yourself, with similar daily duties, at the same (or in some cases multiple) locations, are being paid.^{[20](#)}

(unknown authors)

Footnotes

²⁰ Meeks, 15 F.3d at 1017.



3-E | MUST I PROVE THAT MY EMPLOYER INTENTIONALLY PAID ME LESS BECAUSE I AM A FEMALE?

Under Title VII and the FCRA (http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=Ch0760/ch0760.htm), you must prove that your employer had discriminatory intent, but under laws such as the Equal Pay Act (covered on the Federal Law page), you need only demonstrate that you were paid less for no factor other than sex.²¹

(unknown authors)

Footnotes

²¹ Meeks, 15 F.3d at 1019.



3-F | DOES IT MATTER WHEN THE DISCRIMINATION OCCURRED?

You must file a complaint within 365 days of the alleged violation.²² If you are filing a complaint under the Florida Labor Code

(http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=Ch0448/SEC07.HTM&Title=-%3E2004-%3ECh0448-%3ESection%2007#0448.07), you must do so within six months.²³

(unknown authors)

Footnotes

²² Fla. Stat. Ann. §760.11(1).

²³ Fla. Stat. Ann. §448.07(3).



3-G | WHAT OPTIONS DO I HAVE IF I MY EMPLOYER HAS FEWER THAN FIFTEEN EMPLOYEES?

The FCRA (http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=Ch0760/ch0760.htm) only covers those employers who have fifteen or more employees,²⁴ but the Florida Labor Code (http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=Ch0448/SEC07.HTM&Title=-%3E2004-%3ECh0448-%3ESection%2007#0448.07) applies to all employers with two or more employees,²⁵ provided that the employer is not subject to the exceptions within the Fair Labor Standards Act.²⁶ Some cities have ordinances which cover employers with fewer workers, (See the Local Ordinances section), and you are also protected by the federal laws on equal pay. (link to the Federal section) (link to Ideas For Change)

(unknown authors)

Footnotes

²⁴ Fla. Stat. Ann. §760.02(7).

²⁵ Fla. Stat. Ann. §448.07(1)(b).

²⁶ 29 U.S.C. §§201 et seq.



3-H | WHAT COULD MY EMPLOYER DO TO DENY MY ALLEGATIONS, AND HOW DO I RESPOND TO ITS DENIALS?

Once you demonstrate that you have been paid unequally, your employer must demonstrate that the pay differential was justified because it was done under one of the following:

1. a seniority system (such as a benefit plan for insurance, pension, or retirement savings);^{[27](#)}
2. a merit system;
3. a system which measures earnings by quantity or quality of production; or
4. any other reasonable factor other than sex.^{[28](#)}

(unknown authors)

Footnotes

²⁷ Fla. Stat. Ann. §760.10(7)(b).

²⁸ Meeks, 15 F.3d at 1018; see also Fla. Stat. Ann. §448.07 (2)



FCRA WAGE PROJECT

CHAPTER: 4 DISPARATE IMPACT CLAIMS

AUTHOR: *unknown*

ITEMS: A through F



4-0 | CHAPTER INTRO - DISPARATE IMPACT CLAIMS

My employer's policies disadvantage women more than men.

- a. What Does disparate impact mean?
- b. What is a facially neutral policy?
- c. What Does disparate impact look like?
- d. What kinds of claims can be brought as a disparate impact claim?
- e. I think that a company policy adversely affects me because of my gender, how do I prove it?
- f. What is the difference between disparate impact and disparate treatment?
- g. Are there times when an employment policy or practice may legally impact women different than men?
- h. What could my employer do to deny my allegations, and how do I respond to its denials?
- i. Does it matter when the discrimination occurred? (new window to WDTLS)
- j. What options do I have if I my employer has fewer than fifteen employees? (new window to WDTLS)
- k. If I prove my disparate impact claim, what kind of remedies am I entitled to? (new window to Remedies)

(unknown authors)



4-1 | NOTE ON DISPARATE IMPACT CLAIMS IN FLORIDA

(Note: The FCRA Does not specifically mention disparate impact, so the information on this page is based largely on federal law. See the Federal Law page for more details.)

(unknown authors)



4-A | WHAT DOES DISPARATE IMPACT MEAN?

Disparate impact means something has the effect of discriminating against women, even though it may not have intended to do so.

(unknown authors)



4-B | WHAT IS A FACIALLY NEUTRAL POLICY?

A facially neutral policy is one that Does not appear to discriminate in its exact wording or construction.

(unknown authors)



4-C | I THINK THAT A COMPANY POLICY ADVERSELY AFFECTS ME BECAUSE OF MY GENDER, HOW DO I PROVE IT?

In order to prove disparate impact in an employment context, you must:

1. identify the specific employment practice being challenged;
2. show a disparate impact by showing that a facially neutral practice which treats one group of employees in a discriminatory manner; and
3. show by statistical evidence that that the practice has, in fact, been discriminatory.²⁹

(unknown authors)

Footnotes

²⁹ See Florida State University v. Sonnel, 685 So. 2d 923, 930-931 (Fla. 1st Dist. App. 1996); Prieto v. City of Miami Beach, 190 F.Supp. 2d 1340 (S.D. Fla. 2002)

4-D | WHAT IS THE DIFFERENCE BETWEEN DISPARATE IMPACT AND DISPARATE TREATMENT?

Disparate impact is the effect of a policy that was not necessarily intended to discriminate. Disparate treatment is intentional discrimination against someone because of their protected class.

(unknown authors)



4-E | ARE THERE TIMES WHEN AN EMPLOYMENT POLICY OR PRACTICE MAY LEGALLY IMPACT WOMEN DIFFERENT THAN MEN?

An employer may justify a practice based on a bona fide occupational qualification (BFOQ), which is a legally legitimate reason for which an employer may consider sex or any other protected class as a qualification necessary for the performance of a particular type of employment.³⁰

(unknown authors)

Footnotes

³⁰ Fla. Stat. Ann. §760.10(7)

4-F | WHAT COULD MY EMPLOYER DO TO DENY MY ALLEGATIONS, AND HOW DO I RESPOND TO ITS DENIALS?

Once you make your initial allegation, your employer must demonstrate the practice is based on a bona fide occupational qualification or a bona fide seniority system (see Equal Pay section). Courts have permitted such defenses even where they have a disparate impact upon minorities.³¹ It is up to you to refute this.

(unknown authors)

Footnotes

³¹ Prieto, 190 F.Supp. 2d at 1353.

FCRA WAGE PROJECT

CHAPTER: 5 DISPARATE TREATMENT CLAIMS

AUTHOR: *unknown*

ITEMS: A through F



5-0 | CHAPTER INTRO - DISPARATE TREATMENT CLAIMS

I think my employer treats women differently than men.

- a. What Does "disparate treatment" mean?
- b. What is the difference between disparate treatment and disparate impact?
- c. What kind of claims can be brought as a disparate treatment claim?
- d. I think that a company policy adversely affects me because of my gender, how do I prove it?
- e. Are there times when an employment policy or practice may legally treat women different than men?
- f. What could my employer do to deny my allegations, and how do I respond to its denials?
- g. Does it matter when the discrimination occurred? (new window to WDTLS)
- h. What options do I have if I my employer has fewer than fifteen employees? (new window to WDTLS)
- i. If I prove my disparate treatment claim, what kind of remedies am I entitled to? (new window to Remedies)

(unknown authors)



5-1 | NOTE ON DISPARATE TREATMENT CLAIMS IN FLORIDA

(Note: The FCRA Does not specifically mention disparate treatment, so the information on this page is based largely on federal law. See the Federal Law page for more details.)

(unknown authors)



5-A | WHAT DOES "DISPARATE TREATMENT" MEAN?

Disparate treatment is a employer's policy or practice that explicitly treats women differently than men.

(unknown authors)



5-B | WHAT IS THE DIFFERENCE BETWEEN DISPARATE TREATMENT AND DISPARATE IMPACT?

Disparate impact is the effect of a policy that was not necessarily intended to discriminate. Disparate treatment is intentional discrimination against someone because of their protected class.

(unknown authors)



5-C | WHAT KIND OF CLAIMS CAN BE BROUGHT AS A DISPARATE TREATMENT CLAIM?

Any claim that relates to discriminatory treatment of a person because of gender qualifies as a disparate treatment claim. In the employment context common claims are discriminatory hiring or firing, unequal pay, and wrongfully denied promotion.

(unknown authors)



5-D | I THINK THAT A COMPANY POLICY ADVERSELY AFFECTS ME BECAUSE OF MY GENDER, HOW DO I PROVE IT?

To establish a disparate treatment case, you must show:

1. you are qualified;
2. you suffered an adverse employment action;
3. your employer treated similarly-situated employees not in the protected class more favorably; and
4. you were qualified for the same position or level of pay as similarly situated employees.^{[32](#)}

(unknown authors)

Footnotes

³²Id. at 1349.



5-E | ARE THERE TIMES WHEN AN EMPLOYMENT POLICY OR PRACTICE MAY LEGALLY TREAT WOMEN DIFFERENT THAN MEN?

An employer may justify a practice based on a bona fide occupational qualification, which is a legally legitimate reason for which an employer may consider sex or any other protected class as a qualification necessary for the performance of a particular type of employment.³³

(unknown authors)

Footnotes

³³ Fla. Stat. Ann. §760.10(7)



5-F | WHAT COULD MY EMPLOYER DO TO DENY MY ALLEGATIONS, AND HOW DO I RESPOND TO ITS DENIALS?

Once you establish your case, your employer must give a legitimate, non-discriminatory reason for its actions. You must then show that the reasons your employer has provided are false.³⁴

(unknown authors)

Footnotes

³⁴ See Prieto, 190 F.Supp. 2d at 1349.



FCRA WAGE PROJECT

CHAPTER: 6 SEXUAL HARASSMENT

AUTHOR: *unknown*

ITEMS: A through L



6-0 | CHAPTER INTRO - SEXUAL HARASSMENT

I think I am being sexually harassed at work.

- a. What Does "Quid Pro Quo" sexual harassment look like?
- b. What Does "Hostile Work Environment" sexual harassment look like?
- c. I think I am being sexually harassed at work, how do I prove it?
- d. How do I show that my employer knew what was going on?
- e. Can I file a claim against my boss/supervisor or other co-workers under the FCRA?
- f. I complained to my employer and they reprimanded the harasser. Can I still file a claim?
- g. I reported to my employer, but they didn't do anything - can I still file a claim?
- h. Is one incident of sexual harassment sufficient basis for a claim?
- i. Can I get damages for emotional distress?
- j. How do I show that this conduct affected my ability to work?
- k. What is the difference between sex discrimination and sexual harassment?
- l. What could my employer do to deny my allegations, and how do I respond to the denials?
- m. Does it matter when the discrimination occurred? (new window to WDTLS)
- n. What options do I have if I my employer has fewer than fifteen employees? (new window to WDTLS)
- o. If I prove my Equal Pay claim, what kind of remedies am I entitled to? (new window to Remedies)

(unknown authors)



6-A | WHAT DOES "QUID PRO QUO" SEXUAL HARASSMENT LOOK LIKE?

If a supervisor demands sexual favors of you in order for you to keep your job or get a promotion, this would be considered "quid pro quo" sexual harassment.³⁵ In such a situation, if the supervisor harassing you terminated you, denied your promotion, or took any other action against you, this is known as a tangible employment action, which makes your employer automatically liable.³⁶

(unknown authors)

Footnotes

³⁵ See Stockett v. Tolin, 791 F. Supp. 1536, 1553 (S.D. Fla. 1992)

³⁶ Speaks v. City of Lakeland, 315 F. Supp. 2d 1217, 1223-1224 (M.D. Fla. 2004), see also Walton v. Johnson & Johnson Services, Inc., 347 F.3d 1272 (11th Cir. 2003)



6-B | WHAT DOES "HOSTILE WORK ENVIRONMENT" SEXUAL HARASSMENT LOOK LIKE?

If you are repeatedly subjected on the job to threats, insults, or ridicule based on gender, even if the conduct is not sexual in nature, this can be considered "hostile work environment" sexual harassment.³⁷ In such a situation, where no "tangible employment action" was taken, the employer can defend itself by asserting that it exercised reasonable care to prevent and correct promptly the sexually harassing behavior. (see question g)³⁸

(unknown authors)

Footnotes

³⁷ King v. Auto, Truck, Industrial Parts and Supply, Inc. 21 F. Supp. 2d. 1370, 1378-1379. (N.D. Fla. 1998)

³⁸ Speaks, 315 F. Supp. 2d. at 1224.



6-C | I THINK I AM BEING SEXUALLY HARASSED AT WORK, HOW DO I PROVE IT?

To demonstrate “quid pro quo” sexual harassment, you must show that your employer has altered your job conditions because of your failure to submit to sexual demands.³⁹ To demonstrate that you have been subjected to a hostile work environment, you must show that:

1. you belong to a protected group (women are considered a protected group);
2. you were subjected to unwelcome sexual harassment;
3. the harassment was based on sex;
4. the harassment was so severe or pervasive that it altered the terms and conditions of employment;
5. there are grounds to hold you employer directly or indirectly liable.⁴⁰

(unknown authors)

Footnotes

³⁹ Stockett, 791 F. Supp. at 1552.

⁴⁰ Snoke v. Staff Leasing Inc., 43 F. Supp. 2d 1317, 1326 (M.D. Fla. 1998)



6-D | HOW DO I SHOW THAT MY EMPLOYER KNEW WHAT WAS GOING ON?

Your employer is liable if it knew or should have known of the conditions you complained of and failed to take action against it. If you complain directly to your employer about the situation, then the employer is charged with "actual knowledge," and if the condition is open and observable, the employer is charged with "constructive knowledge."⁴¹

(unknown authors)

Footnotes

⁴¹ Scelta v. Delicatessen Support Services, Inc., 57 F. Supp 2d. 1327, 1340 (M.D. Fla. 1999)



6-E | CAN I FILE A CLAIM AGAINST MY BOSS/SUPERVISOR OR OTHER CO-WORKERS UNDER THE FCRA?

While the FCRA (http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=Ch0760/ch0760.htm) Does not permit suits against individuals,⁴² you can still sue individuals who have harmed you under other statutes or judge-made law.

For example, depending on the nature of the harassment which you have experienced, you may have claims against individual supervisors or co-workers for battery (improper touching), invasion of privacy, intentional infliction of emotional distress, or false imprisonment.⁴³

(unknown authors)

Footnotes

⁴² Blount v. Sterling Healthcare Group, Inc., 934 F. Supp. 1365, 1367 (S.D. Fla. 1996)

⁴³ See Stockett, 791 F. Supp. at 1555 (discussing defendant's individual liability under state law claims).

6-F | CAN I GET DAMAGES FOR EMOTIONAL DISTRESS?

Yes.

The FCRA
(http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=Ch0760/ch0760.htm) provides for damages due to mental anguish.⁴⁴

See What do I get if I win? for details on what remedies you are entitled to.

(unknown authors)

Footnotes

⁴⁴ Fla. Stat. Ann. §760.11(5)



**6-G | I COMPLAINED TO MY EMPLOYER AND THEY REPRIMANDED THE HARASSER
- CAN I STILL FILE A CLAIM?**

Yes, but your employer can defend itself by asserting that it exercised reasonable care to prevent and correct promptly the sexually harassing behavior and that you did not take advantage of opportunities to correct or prevent the harm.

For example, there must be a complaint procedure which allows sexual harassment victims to make their complaint by bypassing the offending supervisor if necessary.^{[45](#)}

(unknown authors)

Footnotes

⁴⁵ Walton, 347 F.3d at 1286.



6-H | I REPORTED TO MY EMPLOYER, BUT THEY DIDN'T DO ANYTHING - CAN I STILL FILE A CLAIM?

Yes, and in this case the employer would have a more difficult time asserting such a defense.

(unknown authors)



6-I | IS ONE INCIDENT OF SEXUAL HARASSMENT SUFFICIENT BASIS FOR A CLAIM?

Generally, courts do not consider isolated incidents of harassment actionable unless they are severe.^{[46](#)}

(unknown authors)

Footnotes

⁴⁶Id. at 1285 n. 12.

6-J | HOW DO I SHOW THAT THIS CONDUCT AFFECTED MY ABILITY TO WORK?

There are four factors you need to show for the court to make this determination:

1. the frequency of the conduct;
2. the severity of the conduct;
3. whether the conduct is physically harassing or humiliating, or merely offensive;
4. whether the conduct unreasonably interferes with your job performance.⁴⁷

(unknown authors)

Footnotes

⁴⁷ Id.



6-K | WHAT IS THE DIFFERENCE BETWEEN SEX DISCRIMINATION AND SEXUAL HARASSMENT?

Sexual harassment is a type of sex discrimination, because the harassment is based on your sex.^{[48](#)} Furthermore, any harassment or conduct which would not occur but for your sex may constitute harassment, even if it is not clearly sexual in nature.^{[49](#)}

(unknown authors)

Footnotes

⁴⁸ *King*, 21 F. Supp. 2d. at 1379.

⁴⁹ *Russell*, 887 So.2d at 378.



6-L | WHAT COULD MY EMPLOYER DO TO DENY MY ALLEGATIONS, AND HOW DO I RESPOND TO ITS DENIALS?

Once you establish your case, your employer must give a legitimate, non-discriminatory reason for its actions. You must then show that the reasons your employer has provided are false.⁵⁰

(unknown authors)

Footnotes

⁵⁰ Snoke, 43 F. Supp. 2d at 1323.



FCRA WAGE PROJECT

CHAPTER: 7 PREGNANCY DISCRIMINATION CLAIMS

AUTHOR: *unknown*

ITEMS: A through B



7-0 | CHAPTER INTRO - PREGNANCY DISCRIMINATION CLAIMS

I think my employer is discriminating against me because I am pregnant.

- a. What is pregnancy discrimination and Does the FCRA cover it?
- b. What else can I do?

(unknown authors)



7-A | WHAT IS PREGNANCY DISCRIMINATION AND DOES THE FCRA COVER IT?

At present, there is no law in the State of Florida covering pregnancy discrimination for all employees. However, the Court of Appeal of Florida (1st. Dist.) has ruled that federal law preempts state law in this area, so the Federal Pregnancy Discrimination Act applies.⁵¹

State employees, however, are protected from pregnancy discrimination by the laws governing the Career Service System. This law forbids the state from terminating employees due to pregnancy or adoption, and requires the state to grant six months of unpaid medical leave upon notice from a physician.⁵² Furthermore, the law also requires that employees be reinstated with the same pay, status, and benefits after a medical leave of absence.⁵³

(unknown authors)

Footnotes

⁵¹ *O' Laughlin v. Pinchback*, 579 So. 2d 788, 792 (Fla. App. 1st 1991).

⁵² Fla. Stat. Ann. §110.221(2).

⁵³ Fla. Stat. Ann. §110.221(3).



7-B | WHAT ELSE CAN I DO?

You may still be able to file a claim under Federal Law. See the Federal Law page for more details.

(unknown authors)



FCRA WAGE PROJECT

CHAPTER: 8 DISCRIMINATORY HIRING POLICIES

AUTHOR: *unknown*

ITEMS: A through F



8-0 | CHAPTER INTRO - DISCRIMINATORY HIRING POLICIES

I wasn't hired because I'm a woman.

- a. I think I wasn't hired because I'm a woman, how do I prove it?
- b. Must I prove that I didn't get the job because of my sex, and not my qualifications? If so how?
- c. What could my employer do to deny my allegations, and how do I respond to its denials?
- d. Does it matter when the discrimination occurred?
- e. What options do I have if I my employer has fewer than fifteen employees?
- f. If I prove my hiring discrimination claim, what kind of remedies am I entitled to?

(unknown authors)

8-A | I THINK I WASN'T HIRED BECAUSE I'M A WOMAN, HOW DO I PROVE IT?

To prove discriminatory hiring, you must show that:

1. you are a member of a protected class (as a woman, you are);
2. you applied and were qualified for a position for which the employer was accepting applications;
3. despite your qualifications, you were not hired; and
4. the position remained open or was filled by a man.^{[54](#)}

(unknown authors)

Footnotes

⁵⁴ *EEOC v. Joe's Stone Crabs, Inc.*, 296 F.3d 1265, 1273 (11th Cir. 2002).



**8-B | HOW CAN I PROVE THAT I DIDN'T GET THE JOB BECAUSE OF MY SEX,
AND NOT MY QUALIFICATIONS?**

Since women are a protected class, one way of showing that you were discriminated against is that the employer engaged in a pattern of discriminatory behavior. Furthermore, even if you didn't apply, you can demonstrate that you had an interest in the position but you were deterred from applying due to the employer's discriminatory practice.⁵⁵

(unknown authors)

Footnotes

⁵⁵ Id. at 1270, 1274-1275.



8-C | WHAT COULD MY EMPLOYER DO TO DENY MY ALLEGATIONS, AND HOW DO I RESPOND TO ITS DENIALS?

Once you establish your case, your employer must give a legitimate, nondiscriminatory reason for its actions. You must then show that the reasons your employer has provided for its actions are merely a pretext for discrimination.⁵⁶

(unknown authors)

Footnotes

⁵⁶ Id. at 1272-1273.



8-D | DOES IT MATTER WHEN THE DISCRIMINATION OCCURRED?

You must file a complaint within 365 days of the alleged violation.⁵⁷

(unknown authors)

Footnotes

⁵⁷ Fla. Stat. Ann. §760.11(1).



8-E | WHAT OPTIONS DO I HAVE IF I MY EMPLOYER HAS FEWER THAN FIFTEEN EMPLOYEES?

While the FCRA (http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=Ch0760/ch0760.htm) only covers employers who have fifteen or more employees, some cities have ordinances which cover employers with fewer workers. (See the Local Ordinances section) ([link to Ideas For Change](#))

(unknown authors)

8-F | IF I PROVE MY HIRING DISCRIMINATION CLAIM, WHAT KIND OF REMEDIES AM I ENTITLED TO?

If a determination of a violation of the FCRA (http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=Ch0760/ch0760.htm) is made, damages you are eligible to receive include back pay, compensatory damages (including damages for mental and dignitary injury), reasonable attorney's fees, and up to \$100,000 in punitive damages in a civil action.⁵⁸ An employer's liability for back pay is limited to two years.⁵⁹

(unknown authors)

Footnotes

⁵⁸ Fla. Stat. Ann. §760.11(5).

⁵⁹ Fla. Stat. Ann. §760.11(9).



FCRA WAGE PROJECT

CHAPTER: 9 WRONGFULLY DENIED PROMOTION

AUTHOR: *unknown*

ITEMS: A through D



9-0 | CHAPTER INTRO - WRONGFULLY DENIED PROMOTION

I think I was denied a promotion because I'm a woman.

- a. I think I did not get the promotion because I'm a woman, how do I prove it?
- b. Must I show that I was qualified?
- c. Must I show that my employer sought a replacement with similar qualifications?
- d. What could my employer do to deny my allegations, and how do I respond to its denials?
- e. Does it matter when the discrimination occurred?
- f. What options do I have if I my employer has fewer than fifteen employees?
- g. If I prove my wrongful denial of promotion claim, what kind of remedies am I entitled to?

(unknown authors)

9-A | I THINK I DID NOT GET THE PROMOTION BECAUSE I'M A WOMAN, HOW DO I PROVE IT?

To demonstrate that you have been wrongfully denied promotion based on sex, you must show that:

- 1) You are a member of a protected class (as a woman, you are);
- 2) You were qualified and applied for the promotion;
- 3) You were rejected despite your qualifications; and
- 4) The person who received the promotion was a man, not a member of the protected class and had lesser or equal qualifications.⁶⁰

(unknown authors)

Footnotes

⁶⁰ King, 21 F. Supp. 2d. at 1381.



9-B | MUST I SHOW THAT I WAS QUALIFIED?

An employer's statement that you are qualified suffices to demonstrate that you are qualified for the promotion.⁶¹

(unknown authors)

Footnotes

⁶¹ See Wilson v. B/E Aerospace, Inc., 376 F.3d 1079 (11th Cir.2004)



9-C | MUST I SHOW THAT MY EMPLOYER SOUGHT A REPLACEMENT WITH SIMILAR QUALIFICATIONS?

If the replacement your employer sought was not of your protected class and was less qualified than you, you have a claim.⁶² Additionally, you must show that there was a great disparity between your qualifications and those of the man who replaced you.⁶³

(unknown authors)

Footnotes

⁶²Id.

⁶³Id. at 1090.



9-D | WHAT COULD MY EMPLOYER DO TO DENY MY ALLEGATIONS, AND HOW DO I RESPOND TO ITS DENIALS?

Once you establish your case, your employer must give a legitimate, non-discriminatory reason for its actions. You must then show that the reasons your employer has provided are false.⁶⁴ However, if you provide direct evidence of a discriminatory policy (for example, if your employer has stated directly that he would not promote a woman to the position you seek), it is unnecessary to show that any other reason your employer has stated are false.⁶⁵

(unknown authors)

Footnotes

⁶⁴ Id. at 1087-1088.

⁶⁵ *King*, 21 F. Supp. 2d. at 1381-1382.



FCRA WAGE PROJECT

CHAPTER: 10 DISCRIMINATORY FIRING

AUTHOR: *unknown*

ITEMS: A through E



10-0 | CHAPTER INTRO - DISCRIMINATORY FIRING

I think I was fired because I'm a woman.

- a. I think I was fired because I'm a woman, how do I prove it?
- b. For what reasons can I be fired?
- c. Are women a "protected class"?
- d. How do I show that my legally protected class led to my discharge?
- e. What could my employer do to deny my allegations, and how do I respond to its denials?
- f. Does it matter when the discrimination occurred?
- g. What options do I have if my employer has fewer than fifteen employees?
- h. If I prove my wrongful termination claim, what kind of remedies am I entitled to?

(unknown authors)



10-A | I THINK I WAS FIRED BECAUSE I'M A WOMAN, HOW DO I PROVE IT?

To establish unlawful termination through circumstantial evidence, you must prove that:

1. you are a member of a protected class;
2. you were qualified for, and adequately performed, your job;
3. you were terminated from your job; and
4. your employer had a continued need for someone to perform the same work after your were terminated.⁶⁶

(unknown authors)

Footnotes

⁶⁶ Kelly v. K.D. Construction of Florida, Inc., 866 F. Supp 1406, 1411 (S.D. Fla. 1994).



10-B | FOR WHAT REASONS CAN I BE FIRED?

Rejection of an applicant or termination of an employee when the individual has failed to meet bona fide requirements for the position is not unlawful.⁶⁷ Furthermore, employee misconduct is also a justifiable reason for termination.⁶⁸

(unknown authors)

Footnotes

⁶⁷ Fla. Stat. Ann. §760.10(8)(b).

⁶⁸ Brown Distributing Company of West Palm Beach v. Marcell, 890 So. 2d 1227, 1231 (Fla. 4th Dist. App. 2005)



10-C | ARE WOMEN A "PROTECTED CLASS"?

Yes, as a woman you are considered to be in a protected class.^{[69](#)}

(unknown authors)

Footnotes

⁶⁹ Scelta, 57 F. Supp. 2d. at 1340.



10-D | HOW DO I SHOW THAT MY LEGALLY PROTECTED CLASS LED TO MY DISCHARGE?

You must show that a discriminatory reason more likely than not led to your termination. For example, if you were terminated for a particular workplace violation that Doesn't warrant termination for male employees, this may be enough to demonstrate that you were fired for a discriminatory reason.⁷⁰

(unknown authors)

Footnotes

⁷⁰ Kelly, 866 F. Supp. at 1412-1413.

10-E | WHAT COULD MY EMPLOYER DO TO DENY MY ALLEGATIONS, AND HOW DO I RESPOND TO THEIR DENIALS?

Once you establish your case, your employer must state a legitimate, non-discriminatory reason for your discharge. You must then prove that the discriminatory reason was a significant or motivating factor in your employer's decision.⁷¹

(unknown authors)

Footnotes

⁷¹ Id. at 1412.



FCRA WAGE PROJECT

CHAPTER: 11 RETALIATION/REPRISAL

AUTHOR: *unknown*

ITEMS: A through G



11-0 | CHAPTER INTRO - RETALIATION/REPRISAL

I think my employer fired me because I filed a sex discrimination claim.

- a. What is retaliation or reprisal, and how do I prove it?
- b. For what reasons can I be fired?
- c. What is "protected conduct"?
- d. How do I show that my legally protected conduct led to my discharge?
- e. Did my employer retaliate against me by taking an "adverse action"?
- f. What could my employer do to deny my allegations, and how do I respond to its denials?
- g. What evidence must I show to prove that my "protected conduct" led to my being fired?
- h. If I prove retaliation, what kind of remedies am I entitled to? (New window to Remedies)
- i. My employer has fewer than fifteen employees - is there anything I can do? (New window to WDTLS)
- j. Is there a time limit for when I can file a claim with the ECHR? (New window to WDTLS)

(unknown authors)



11-A | WHAT IS RETALIATION OR REPRISAL, AND HOW DO I PROVE IT?

You have experienced retaliation if:

1. you engaged in a protected activity;
2. you suffered an adverse employment action; and
3. the adverse employment action you suffered was caused by your protected activity.⁷²

(unknown authors)

Footnotes

⁷² Snoke, 43 F. Supp. 2d at 1328.



11-B | FOR WHAT REASONS CAN I BE FIRED?

Rejection of an applicant or termination of an employee when the individual has failed to meet bona fide requirements for the position is not unlawful.⁷³ Furthermore, employee misconduct is also a justifiable reason for termination.⁷⁴

(unknown authors)

Footnotes

⁷³ Fla. Stat. Ann. §760.10(8)(b).

⁷⁴ *Brown Distributing Company of West Palm Beach*, 890 So. 2d at 1231.



11-C | WHAT IS "PROTECTED CONDUCT"?

If you oppose any action in violation of the FCRA (http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=Ch0760/ch0760.htm), or make a charge of discrimination against your employer, your conduct is protected. Likewise, if you have participated, testified, or assisted in an investigation or hearing under the FCRA, your conduct is also protected.⁷⁵

(unknown authors)

Footnotes

⁷⁵ Fla. Stat. Ann. §760.10(7)

11-D | HOW DO I SHOW THAT MY LEGALLY PROTECTED CONDUCT LED TO MY DISCHARGE?

At the very least, you must show that your employer was actually aware of your protected activity at the time of your discharge.^{[76](#)}

(unknown authors)

Footnotes

⁷⁶ Russell, 887 So.2d at 379-380.



11-E | CAN MY EMPLOYER RETALIATE AGAINST ME BY TAKING AN "ADVERSE ACTION"?

Your employer cannot take any discriminatory action against you because of your protected activity, and this includes (but is not limited to) termination.⁷⁷

(unknown authors)

Footnotes

⁷⁷ See Russell, 887 So.2d 372, 379-380.



11-F | WHAT COULD MY EMPLOYER DO TO DENY MY ALLEGATIONS, AND HOW DO I RESPOND TO THEIR DENIALS?

Once you establish your case, your employer must give a legitimate, non-discriminatory reason for its actions. You must then show that the reasons your employer has provided are false. (See question g) [78](#)

(unknown authors)

Footnotes

⁷⁸ Snoke, 43 F. Supp. 2d at 1327-1328.



11-G | WHAT EVIDENCE MUST I SHOW TO PROVE THAT MY "PROTECTED CONDUCT" LED TO MY BEING FIRED?

You must ultimately demonstrate that the reason your employer has stated for discharging you is a pretext for retaliation. For example, if after making your complaint, you are terminated for leaving work early but you but you believed you had permission to do so, this may be sufficient to demonstrate pretext on the part of your employer.⁷⁹

(unknown authors)

Footnotes

⁷⁹ See Russell, 887 So.2d 372, 379-380.



FCRA WAGE PROJECT

CHAPTER: 12 HOW DO I FILE A CLAIM?

AUTHOR: *unknown*

ITEMS: A through O



12-0 | CHAPTER INTRO - HOW DO I FILE A CLAIM?

- a. How do I file a state claim with the FCHR?
- b. How do I contact the FCHR?
- c. Against whom can I file a claim?
- d. If I choose to file a claim, what is expected of me?
- e. How long will the process take?
- f. Do I need an attorney?
- g. Do I have to contact the FCHR?
- h. Can't I sue my employer directly without going through the FCHR?
- i. Who will investigate my complaint?
- j. What do I do after my initial contact with the FCHR?
- k. What happens after I submit my claim?
- l. What happens if the investigators determine that no "reasonable" or "probable" cause exists on which to base a claim?
- m. What happens if the investigator determines that "reasonable" or "probable" cause exists on which to base a claim?
- n. Can I file a federal claim of employment discrimination as well? If so, how?
- o. What are the advantages and disadvantages of filing a federal claim over a state claim?

(unknown authors)



12-A | HOW DO I FILE A STATE CLAIM WITH THE FCHR?

Any person who is working or seeking employment (with the exception of certain Federal employees), who feels he or she may have a discrimination claim, may file a claim with FCHR.⁸⁰

You may file a claim directly with FCHR and can do so in writing, by phone, or in person. You may also file a claim electronically by fax or through their website at <http://fchr.state.fl.us/>.⁸¹

(unknown authors)

Footnotes

⁸⁰ <http://fchr.state.fl.us/complaint.htm> (updated 1/24/2005).

⁸¹ Fla. Admin. Code Ann. 60Y-2.005(5) (West 2005)

12-B | HOW DO I CONTACT THE FCHR?

The FCHR (<http://fchr.state.fl.us/>) is located at 2009 Apalachee Parkway, Suite 100, Tallahassee, FL 32301-4857. The telephone number for the Clerk to the Commission is (850)488-7082. Their fax number for complaints is (850)488-5291, and their fax number for petitions and appeals is (850)487-4957.^{[82](#)}

(unknown authors)

Footnotes

⁸² Id.



12-C | AGAINST WHOM CAN I FILE A CLAIM?

You may file a claim against employer, employment agency, labor organization (such as a union), or joint labor-management committee under the FCRA.⁸³

(unknown authors)

Footnotes

⁸³ Fla. Stat. Ann. §760.11(1).



12-D | IF I CHOOSE TO FILE A CLAIM, WHAT IS EXPECTED OF ME?

You must file a complaint within 365 days of the alleged violation, naming the employer, employment agency, or labor organization responsible for the violation. The complaint must contain a brief, plain statement of the facts describing the violation and the relief requested.^{[84](#)}

(unknown authors)

Footnotes

⁸⁴ Id.



12-E | HOW LONG WILL THE PROCESS TAKE?

Within 180 days, the FCHR (<http://fchr.state.fl.us/>) will determine whether or not there is reasonable cause to believe that there has been an FCRA (http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=Ch0760/ch0760.htm) violation and will notify you and your employer by registered mail.⁸⁵ A determination of reasonable cause simply means that the agency believes that a discriminatory practice forbidden by the FCRA has occurred.⁸⁶

(unknown authors)

Footnotes

⁸⁵ Fla. Stat. Ann. §760.11(3).

⁸⁶ *Woodham*, 829 So. 2d at 894.



12-F | DO I NEED AN ATTORNEY?

No, you do not need an attorney to simply file a complaint with the FCHR.⁸⁷

(unknown authors)

Footnotes

⁸⁷ <http://fchr.state.fl.us/complaint.htm> (updated 1/24/2005).



12-G | DO I HAVE TO CONTACT THE FCHR?

Yes.

In order to make a claim under the FCRA (http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=Ch0760/ch0760.htm), you must file a complaint through the FCHR (<http://fchr.state.fl.us/>) or EEOC (<http://www.eeoc.gov/>).⁸⁸

(unknown authors)

Footnotes

⁸⁸ Fla. Stat. Ann. §760.11(1), see also Segura v. Hunter Douglas Fabrication Co., 184 F. Supp. 2d 1227. (M.D. Fla. 2002)

12-H | CAN'T I SUE MY EMPLOYER DIRECTLY WITHOUT GOING THROUGH THE FCHR?

No.

Florida requires that you exhaust all administrative remedies before filing suit, which means that you must first file a complaint thorough the FCHR (<http://fchr.state.fl.us/>) or EEOC (<http://www.eeoc.gov/>) before bringing suit against your employer.⁸⁹

(unknown authors)

Footnotes

⁸⁹ Thompson v. Orange Lake Country Club, Inc., 224 F. Supp. 2d 1368, 1375 (M.D. Fla. 2002)



12-I | WHO WILL INVESTIGATE MY COMPLAINT?

The FCHR (<http://fchr.state.fl.us/>) will investigate the allegations you make in your complaint.⁹⁰

(unknown authors)

Footnotes

⁹⁰ Fla. Stat. Ann. §760.11(3).

12-J | WHAT DO I DO AFTER MY INITIAL CONTACT WITH THE FCHR?

The commission will advise you of your rights and responsibilities as the claim is processed.⁹¹

(unknown authors)

Footnotes

⁹¹ <http://fchr.state.fl.us/complaint.htm> (updated 1/24/2005).

12-K | WHAT HAPPENS AFTER I SUBMIT MY CLAIM?

The commission will then send a copy of the complaint to your employer, who then has 25 days in which respond to the complaint.⁹²

(unknown authors)

Footnotes

⁹² Fla. Stat. Ann. §760.11(1), see also Fla. Admin. Code Ann. r. 60y-5.0011.



12-L | WHAT HAPPENS IF THE INVESTIGATORS DETERMINE THAT NO "REASONABLE" OR "PROBABLE" CAUSE EXISTS ON WHICH TO BASE A CLAIM?

If the FCHR (<http://fchr.state.fl.us/>) determines that there is no reasonable cause to believe a violation has occurred, the claim will be dismissed, but you may still request an administrative hearing before the FCHR within 35 days of the date of the determination.⁹³

If the FCHR fails to render a determination within 180 days, you may either file suit or request an administrative hearing.⁹⁴

(unknown authors)

Footnotes

⁹³ Fla. Stat. Ann. §760.11(7).

⁹⁴ Fla. Stat. Ann. §760.11(8), see also Woodham, 829 So. 2d at 899.



12-M | WHAT HAPPENS IF THE INVESTIGATOR DETERMINES THAT "REASONABLE" OR "PROBABLE" CAUSE EXISTS ON WHICH TO BASE A CLAIM?

If the FCHR (<http://fchr.state.fl.us/>) determines that there is reasonable cause, you may either file a civil suit against the party named in the complaint in court or request an administrative hearing before the FCHR.^{[95](#)}

If you choose to resolve the violation through an administrative hearing, you must request the hearing within 35 days of the date of the determination of reasonable cause.^{[96](#)}

(unknown authors)

Footnotes

⁹⁵ Fla. Stat. Ann. §760.11(4).

⁹⁶ Fla. Stat. Ann. §760.11(6).



12-N | CAN I FILE A FEDERAL CLAIM OF EMPLOYMENT DISCRIMINATION AS WELL? IF SO, HOW?

The FCHR (<http://fchr.state.fl.us/>) has a work-sharing agreement with the EEOC (<http://www.eeoc.gov/>).⁹⁷ Thus, a filing of a complaint with the FCHR operates as a dual filing with the EEOC.⁹⁸ Filing a complaint with the FCHR automatically initiates proceedings of both agencies.⁹⁹ Alternatively, you may file a complaint with the EEOC.¹⁰⁰

(unknown authors)

Footnotes

⁹⁷ See Segura, 184 F. Supp. 2d. at 1237 (decision includes full text of the worksharing agreement).

⁹⁸ Woodham, 829 So. 2d at 893.

⁹⁹ Segura, 184 F. Supp. 2d at 1237.

¹⁰⁰ Fla. Stat. Ann. §760.11(1).



12-O | WHAT ARE THE ADVANTAGES AND DISADVANTAGES OF FILING A FEDERAL CLAIM OVER A STATE CLAIM?

Federal law is somewhat broader inasmuch as it covers discrimination due to pregnancy and disparate impact cases.

See the Federal Law page for more.

(unknown authors)



FCRA WAGE PROJECT

CHAPTER: 13 WHAT AM I ENTITLED TO IF I WIN?

AUTHOR: *unknown*

ITEMS: A through G



13-0 | CHAPTER INTRO - WHAT AM I ENTITLED TO IF I WIN?

- a. What am I entitled to if I prove my claim of sex discrimination under the FCRA?
- b. What is equitable relief?
- c. What is injunctive relief?
- d. What is the difference between compensatory and punitive damages?
- e. Am I entitled to my old job back?
- f. Will this be the final result?
- g. If I am not satisfied with the result, can I appeal?

(unknown authors)



13-A | WHAT AM I ENTITLED TO IF I PROVE MY CLAIM OF SEX DISCRIMINATION UNDER THE FCRA?

If a determination of a violation of the FCRA (http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=Ch0760/ch0760.htm) is made, damages you are eligible to receive include back pay, compensatory damages (including damages for emotional distress), reasonable attorney's fees, and up to \$100,000 in punitive damages in a civil action.^{[101](#)} An employer's liability for back pay is limited to two years.^{[102](#)}

(unknown authors)

Footnotes

¹⁰¹ Fla. Stat. Ann. §760.11(5).

¹⁰² Fla. Stat. Ann. §760.11(9).



13-B | WHAT IS EQUITABLE RELIEF?

A remedy in equity is non-monetary relief, obtained when monetary damages cannot adequately redress the injury.¹⁰³

(unknown authors)

Footnotes

¹⁰³ Black's Law Dictionary 1297 (Bryan A. Garner ed., 7th ed., West 1999).



13-C | WHAT IS INJUNCTIVE RELIEF?

An injunction is a court order commanding or preventing an action.^{[104](#)}

(unknown authors)

Footnotes

¹⁰⁴ Id. at 788.



13-D | WHAT IS THE DIFFERENCE BETWEEN COMPENSATORY AND PUNITIVE DAMAGES?

Compensatory damages compensate for what you have lost, while punitive damages exist to punish the wrongdoer (in this case, an employer who has violated your rights under the FCRA).

(unknown authors)

13-E | AM I ENTITLED TO MY OLD JOB BACK?

Yes, the FCHR (<http://fchr.state.fl.us/>) can order your reinstatement, as well as ordering your former employer to cease and desist from any discriminatory actions.¹⁰⁵

(unknown authors)

Footnotes

¹⁰⁵ <http://fchr.state.fl.us/complaint.htm> (updated 1/24/2005).

13-F | WILL THIS BE THE FINAL RESULT?

Yes.

If a civil action is brought under the FCRA (http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=Ch0760/ch0760.htm), the commission no longer has jurisdiction over the complaint once it is in court.¹⁰⁶

(unknown authors)

Footnotes

¹⁰⁶ Fla. Stat. Ann. §760.11(5).



13-G | IF I AM NOT SATISFIED WITH THE RESULT, CAN I APPEAL?

Yes.

Final orders of the commission are subject to judicial review.^{[107](#)}

(unknown authors)

Footnotes

¹⁰⁷ Fla. Stat. Ann. §760.11(13), see also Fla. Admin. Code Ann. r. 60Y-4.030.



FCRA WAGE PROJECT

CHAPTER: 14 LOCAL ORDINANCES: DOES MY CITY HAVE ITS OWN
LAWS ABOUT SEX DISCRIMINATION?

AUTHOR: *unknown*

ITEMS: A through D



14-0 | CHAPTER INTRO - LOCAL ORDINANCES: DOES MY CITY HAVE ITS OWN LAWS ABOUT SEX DISCRIMINATION?

- a. What are the differences between local and state law?
- b. What are the advantages or disadvantages of the local law?
- c. What is the procedure of filing a local claim?
- d. What are the remedies under the local law?

(unknown authors)



14-A | WHAT ARE THE DIFFERENCES BETWEEN LOCAL AND STATE LAW?

Several cities and counties in Florida have ordinances with provisions similar to (and in some cases, explicitly referencing) the FCRA (http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=Ch0760/ch0760.htm) and Title VII of Federal Law. Metropolitan Dade County, Palm Beach County, West Palm Beach, Jacksonville, Orlando, St. Petersburg, and Tampa all have such ordinances, as well as city boards of equal opportunity or human relations.

(unknown authors)

14-B | WHAT ARE THE ADVANTAGES OR DISADVANTAGES OF THE LOCAL LAW?

None of the ordinances provide for compensation, but some carry a penalty of a fine to your employer. However, several cities have ordinances which permit complaints to be filed against employers smaller than the statutory minimum of fifteen as provided by the FCRA

(http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=Ch0760/ch0760.htm) .

For example, Orlando and St. Petersburg define an employer as any person who has more than five full-time employees working more than thirty hours a week, or more than ten employees irrespective of the number of hours per week, in each of thirteen calendar weeks per year.¹⁰⁸ Metropolitan Dade County defines an employer as a person with five or more employees for four or more calendar weeks per year.¹⁰⁹

(unknown authors)

Footnotes

¹⁰⁸ City Code Orlando (Fla.) §57.01 (6) (2004), St. Petersburg City Code (Fla.) §15-22 (2005).

¹⁰⁹ Metropolitan Dade County Code §11A-25 (2004).



14-C | WHAT IS THE PROCEDURE OF FILING A LOCAL CLAIM?

You must file a complaint with the local commission on human relations in that locality. Contact the local commissions for instructions on how to do so.

Here are the websites for some of the local commissions:

Jacksonville:

<http://www.coj.net/Departments/Human+Rights+Commission/default.htm>

Orlando:

<http://www.cityoforlando.net/executive/ohr/index.htm>Tampa

Tampa:

http://www.tampagov.net/dept_community_affairs/human_rights/Index.asp

Palm Beach County:

<http://www.co.palm-beach.fl.us/PubInf/Dept&Div/CommunityServ/OEO.htm>

St. Petersburg:

<http://www.stpete.org/hrdivision.htm>

Miami-Dade County:

<http://www.miamidade.gov/eob/home.asp>

(unknown authors)

14-D | WHAT ARE THE REMEDIES UNDER THE LOCAL LAW?

The ordinances themselves do not provide remedies, other than conciliation.

(unknown authors)

APPENDIX



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