

# The Bennett Law Firm

## *Client Update*

Trusted Advisor to Management for Over 50 Years  
Labor Relations ~ Employment Law ~ Business Litigation  
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### **SENATE REPORT EXPOSES EQUAL EMPLOYMENT OPPORTUNITY COMMISSION'S ABUSIVE LITIGATION RECORD**

Earlier this week, United States Senator Lamar Alexander, the senior Republican on the Senate Labor Committee, released a staff report exposing the Equal Employment Opportunity Commission's litigation record and its resultant cost to taxpayers.

Unfortunately, the EEOC "is pursuing many questionable cases through sometimes overly aggressive means and, as a result, has suffered significant court losses that are embarrassing to the agency and costly to taxpayers. Courts have found EEOC's litigation tactics to be so egregious they have ordered EEOC to pay defendants' attorneys' fees in ten cases since 2011. The courts have criticized EEOC for misuse of its authority, poor expert analysis, and pursuit of novel cases unsupported by law."

We defended one such lawsuit filed in the United States District Court in New Hampshire. In that case, the EEOC sued for disability discrimination on behalf of a complainant who lost her job due to documented poor performance. Our client had already made its decision to terminate employment when the complainant disclosed her need for surgery and thus the decision could not have been based on her health condition.

Prior to the EEOC filing suit, we asked to meet with the agency to provide our documentary evidence that should have dissuaded it from filing suit. Instead the EEOC demanded a settlement for the complainant. When we asked the representative to explain the basis on which the settlement was calculated, there was none other than that this amount was what the complainant wanted.

We defended the lawsuit and won dismissal without a trial, but our client still endured the expense of a defense against aggressive litigation tactics. In addition, our client endured public embarrassment because the EEOC issued a press release when it filed its lawsuit that attempted to convict our client by the mere fact of filing a complaint which the EEOC should have known it could not prove.

We are glad to see that the Senate is starting to expose these practices. While we understand that there are meritorious cases the EEOC pursues, the unfathomable case choosing and subsequent aggressive staffing and tactics waste taxpayer money and do a public disservice.

“Today’s EEOC has had successful enforcement efforts and court victories for victims of discrimination, but this report finds the agency is increasingly demonstrating poor judgment and using questionable tactics in pursuit of cases that are not fulfilling the EEOC’s objective of protecting employees from workplace discrimination,” the report concludes.