

## **Rule 17: Right to Sue.**

17.01 A complainant may ask for a right to sue in state court if not less than one hundred and twenty (120) days and not more than two (2) years have elapsed from the date of filing of a charge, if the Commission has been unable to secure a settlement agreement or conciliation agreement and if the Commission has not commenced hearing on a complaint. The Commission shall grant the right to sue within thirty (30) days after the receipt of such request. This shall terminate all proceedings before the commission and shall give to the complainant the right to commence suit in the Superior Court within any county as provided in Section 28-5-28 within ninety (90) days after the granting of the request. Any party may claim a trial by jury.

17.02 For cases pending at the Commission on July 8, 1999, excluding housing and credit cases, in which a finding of probable cause has been made by the Commission under Section 28-5-18 or will in the future be made, the Commission shall within thirty (30) days of such findings of probable cause or within thirty (30) days of July 8, 1999, whichever is later, notify the respondent of the right to have the complaint heard and decided in the Superior Court. If within thirty (30) days of receipt of such notification by the respondent the respondent elects in writing, with copies to all parties, to have the case heard in the Superior Court, the Commission shall promptly issue a right to sue notice to the complainant and all proceedings before the Commission shall terminate. Once a notice of right to sue issues to the complainant, the complainant shall have the right to commence suit in the Superior Court within any county as provided in Section 28-5-28 within ninety (90) days of the date of the right to sue notice, a copy of which shall be sent to all parties. Either party may claim a trial by jury in Superior Court.

17.03 For cases filed at the Commission after July 8, 1999, excluding housing and credit cases, the complainant or respondent may elect within twenty (20) days after receipt of a finding of probable cause, to terminate by written notice to the Commission and all parties, all proceedings before the Commission and have the case heard in the Superior Court. In the event of an election to terminate the proceedings, the Commission shall issue a right to sue letter to the complainant with a copy of such letter sent to all parties. Once a notice of right to sue issues to the complainant, the complainant shall have the right to commence suit in the Superior Court within any county as provided in Section 28-5-28 within ninety (90) days of the date of the right to sue notice, a copy of which shall be sent to all parties. Either party may claim a trial by jury in Superior Court.

17.04. With respect to requests to elect to have a case heard in Superior Court, as set forth in Rules 17.02 and 17.03 of the Commission Rules and Regulations above, if a case involves multiple respondents, and at least one respondent but fewer than all of the respondents elects to have the case heard and decided in Superior Court within the time limits set forth by statute, the Commission shall issue a right to sue notice in respect to the entire action to the complainant(s), with a copy of such notice sent to all parties.

17.05 Notwithstanding the issuance of a right to sue notice to the complainant under Rule 17.02 or 17.03 of the Commission Rules and Regulations, the parties may agree to have the Commission conciliate or mediate settlement of the case within the ninety (90) day period in which the complainant has the right to commence suit in Superior Court.