

ARTICLE 1. – IN GENERAL

Sec. 9-4. - Private cause of action; remedies.

- (a) An aggrieved individual may, under this chapter, commence a civil action in a court of competent jurisdiction against the person alleged to have committed a discriminatory practice; provided, however, that such civil action must be filed no later than one year after the discriminatory practice is alleged to have been committed.
- (b) If, in a civil action commenced under this chapter, the court finds that a discriminatory practice has been committed or is about to be committed, the court may issue an order prohibiting the discriminatory practice and providing affirmative relief from the effects of the discriminatory practice including, but not limited to, a temporary or permanent injunction or other equitable relief, a temporary restraining order, an award of actual damages, including back pay, punitive damages, an award of reasonable attorney's fees, interest, and costs, or other such relief as the court deems appropriate.
- (c) With regard to attorney's fees, sanctions for raising unsupported claims or defenses, service of motions, and damages for delay of litigation, F.S. (2009) § 57.105, or as such section may thereafter be amended, is hereby adopted as follows:
 - (1) In any civil action commenced under this chapter, upon the court's initiative or motion of any party, the court shall award a reasonable attorney's fee to be paid to the prevailing party in equal amounts by the losing party and the losing party's attorney on any claim or defense at any time during a civil proceeding or action in which the court finds that the losing party or the losing party's attorney knew or should have known that a claim or defense when initially presented to the court or at any time before trial:
 - a. Was not supported by the material facts necessary to establish the claim or defense; or
 - b. Would not be supported by the application of then-existing law to those material facts.

However, the losing party's attorney is not personally responsible if he or she has acted in good faith, based on the representations of his or her client as to the existence of those material facts. If the court awards attorney's fees to a claimant pursuant to this subsection, the court shall also award prejudgment interest.

- (2) Paragraph (1)b. does not apply if the court determines that the claim or defense was initially presented to the court as a good faith argument for the extension, modification, or reversal of existing law or the establishment of new law, as it applied to the material facts, with a reasonable expectation of success.
- (3) At any time in any civil proceeding or action in which the moving party proves by a preponderance of the evidence that any action taken by the opposing party, including, but not limited to, the filing of any pleading or part thereof, the assertion of or response to any discovery demand, the assertion of any claim or defense, or the response to any request by any other party, was taken primarily for the purpose of unreasonable delay, the court shall award damages to the moving party for its reasonable expenses incurred in obtaining the order, which may include attorney's fees, and other loss resulting from the improper delay.
- (4) A motion by a party seeking sanctions under this section must be served but may not be filed with or presented to the court unless, within 21 days after service of the motion, the challenged paper, claim, defense, contention, allegation, or denial is not withdrawn or appropriately corrected.
- (5) In administrative proceedings under F.S. (2009) ch. 120, or as such chapter may thereafter be amended, an administrative law judge shall award a reasonable attorney's fee and damages to be paid to the prevailing party in equal amounts by the losing party and a losing party's attorney or qualified representative in the same manner and upon the same basis as provided in subsections (1)—(4). Such award shall be a final order subject to judicial review pursuant to F.S. (2009) § 120.68, or as such section may thereafter be amended. If the losing party is an agency as defined in F.S. (2009) § 120.52(1), or as such section may thereafter be amended, the award to the prevailing party shall be against and paid by the agency. A voluntary dismissal by a nonprevailing party does not divest the administrative law judge of jurisdiction to make the award described in this subsection.
- (6) The provisions of this section are supplemental to other sanctions or remedies available under law or under court rules.

(Ord. No. 10-15, § 1, 5-11-10)