

**HUMAN RIGHTS BUREAU  
MONTANA DEPARTMENT OF LABOR AND INDUSTRY  
PO BOX 1728  
HELENA MT 59624**

**VOLUNTARY RESOLUTION PROPOSAL  
(EMPLOYMENT COMPLAINT)**

After a complaint of discrimination has been filed, the Human Rights Bureau is willing to work with the parties to reach a voluntarily resolution of the matter.

In order to facilitate a fair resolution, we ask the parties to take some time and carefully consider what they are willing to offer or accept in order to settle the matter. In some cases, it may be appropriate for a charging party to ask for damages. Damages are typically determined on the basis of making an injured person whole- in other words, restoring to that person all that was lost as a result of the alleged illegal discrimination. Damages could be compensatory in nature, for example wages lost because of a termination. However, there is a variety of non-compensatory provisions, which may also be offered or requested. Additionally, it could be that the parties agree that affirmative relief is appropriate. Affirmative relief usually takes the form of preventative measures performed by a respondent such as training on discrimination laws or policy review.

*\*Please consider discussing the terms of an offer with an attorney and/or tax professional.\**

**EXAMPLES OF NON-COMPENSATORY PROVISIONS**

- Placement or reinstatement to a position
- Promotion
- Provision of a reasonable accommodation/reasonable modification
- Removal of a disciplinary letter
- Apology
- Employment reference

**EXAMPLES OF AFFIRMATIVE RELIEF**

- Training for the respondent or respondent's staff on discrimination laws
- Policy review and comment by the Bureau
- Requiring posters that explain discrimination laws

**EXAMPLES OF COMPENSATORY DAMAGES**

- Front pay may be available in lieu of reinstatement (i.e., pay for a fixed period of time where reinstatement or employment is not offered or is impossible)

- Back pay, defined as those earnings and other monetary benefits the individual would have received but for the employment decision taken. This remedy covers the period from the date the alleged discrimination began to the date of a court order, settlement or an unconditional offer of employment. (Back pay calculations might include overtime pay, premium pay, shift differentials, incentive pay, bonuses, commissions, and tips that might have reasonably been expected as a part of employment.)
- Employer contributions to retirement and profit sharing plans, savings plans, paid leave plans, and out-of-pocket expenses incurred for premiums or medical costs that would have been covered by employer's health insurance plan.
- Special fringe benefits including training, travel or business expense benefits, employee discounts, and lost promotional opportunities.
- Miscellaneous expenses such as job-seeking expenses, moving costs, and any incidental costs incurred in pursuing this claim (telephone, travel, copying, and attorneys fees).

## **OTHER DAMAGES**

In appropriate instances, a party may seek damages for actual humiliation, embarrassment, or emotional distress. Please note that the law specifically prohibits awarding the payment of punitive damages, defined as those intended simply to punish the wrongdoer for its discriminatory act.

***Nothing in this brochure or any other documents of the Department of Labor and Industry shall be construed to create any right or benefit, substantive or procedural, enforceable at law or in equity by a party against the State of Montana, its agencies, its officers, or any other person.***

NAME OF CASE:

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ASSIGNED INVESTIGATOR (if applicable):

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TO RESOLVE THIS CHARGE I WILL OFFER/ACCEPT:

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(Please attach additional paper if necessary)

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Name (please print): \_\_\_\_\_