See You In Court

Tips on Filing an HIV Discrimination Lawsuit

June 25, 2014 By Casey Halter

Discuss It With Your Discriminator

Don’t go straight to suing. First, bring up a formal complaint with the person or facility you believe discriminated against you. Whether that involves talking to your company’s HR person, filling out a complaint form at your doctor’s office or leaving a message on your landlord’s voice mail, it’s a key first step. Why? The record of this attempt will help you in court. Also, if your discriminator realizes the mistake and fixes it, then you’ve saved everyone a lot of time and money.

Build Your Argument

Remember: You must prove you were unfairly treated and experienced a negative outcome because of it. Compile all of your evidence, including emails, phone recordings and eyewitness testimonies. Then call a legal hotline, such as Lambda Legal at 866-542-8336, or go to your local AIDS service organization for help.

Make a Formal Legal Complaint

You can file a discrimination lawsuit through many federal channels. Most complaints must be filed within 180 days, so act fast.

- For discrimination in the workplace: File a complaint with the Equal Employment Opportunity Commission (EEOC). If it feels federal law was violated, it’ll send you a “Right to Sue” letter that will allow you to file your own private case. The EEOC may even take your case. Visit eeoc.gov/employees/howtofile.htm or call 800-669-4000 for more info.
- For discrimination in a hospital, school, prison or other public place: Take it up with the Department of Justice. Government lawyers can take action against any federally funded discriminator. The DOJ may file the lawsuit for you. If it doesn’t, you can always hire your own legal team. Call 800-514-0301 or visit ada.gov/aids/ada_aids_complaints.htm for more info.
- For discrimination regarding housing: Go to the U.S. Department of Housing and Urban Development (HUD). Its policy is similar to the EEOC’s. Call HUD at 1-800-669-9777 or visit

hud.gov/complaints for more info.

Prepare for Battle

If the government doesn't take up your case, then find a good legal team. See if an organization will take you on pro-bono (a.k.a.: free). Try Lambda Legal, the AIDS Legal Services Project in Los Angeles, AIDS Law Project of Pennsylvania and the ACLU as well as local firms that specialize in civil rights. And know what you're in for. An HIV discrimination lawsuit is more likely to be dismissed or settled out of court. Cases take about two-and-a-half years—not counting the appeals.

Move Past It All

If you lose your case: You may appeal—if you have enough money, time and endurance. If you win: Congrats! But it might be a long time before you see any cash—and you will pay taxes on it. Take note: If you're suing a place of public accommodation, only the DOJ can grant damages—if you hire a private attorney, you can only get attorney's fees and injunctive relief. Oh, and consider sharing your story. Become an advocate against HIV discrimination.

*This sidebar contains legal information but is not legal advice. We recommend that you seek a legal expert before taking any steps toward filing a case.

Click here to read our feature story on HIV discrimination.

Click here to read our timeline of HIV discrimination.

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