

HR Quick Take: Severance Agreements

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Q: Our severance agreement states that employees waive all rights to future claims. A former employee who signed the agreement has now filed a sex discrimination claim with the ICRC. Can we enforce the severance agreement?

A: In Iowa, you can generally require that employees waive all future claims, including claims to settlement from the Iowa Civil Rights Commission. There are a few things which generally cannot be waived in a severance agreement, such as job service benefits.

However, under the *Waffle House* case decided by the United States Supreme Court and a series of other cases decided later, an employee cannot be prohibited from providing information to the Iowa Civil Rights Commission or other agencies and the Commission itself can bring a claim. The employee would be allowed to participate in that claim and provide supportive information. However, many severance agreements set forth that if your employee does participate in a claim of this type, the money paid under the severance is considered full and final satisfaction for any amounts that might be awarded as part of any agency action.

In other words, the employee may not be entitled to any additional money in the event that discrimination is found, however, this has not stopped the Iowa Civil Rights Commission or the EEOC from seeking remedies on its own such as training and other items.

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