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## EEOC Claim No Longer Needed for Lawsuit

The 10th Circuit Court of Appeals, which has jurisdiction over Colorado, Utah, New Mexico, Kansas, Wyoming, and Oklahoma, recently issued a ruling that upended a 40-year precedent in how anti-discrimination lawsuits are handled using the Equal Employment Opportunity Commission (EEOC) administrative process.

Prior case law held that before a discrimination lawsuit could be filed in court the plaintiff had to work through and exhaust the EEOC's process for settling the dispute. This process, called exhaustion of administrative remedies, meant that if a lawsuit was filed outside of the 300-day window set by the EEOC for making a claim or if the plaintiff did not complete the administrative process to settle a claim outside of court, then a federal judge would dismiss the suit out of hand because according to appellate precedent, the court did not have jurisdiction over the claim.

However, in *Lincoln v. BNSF Ry. Co.* the 10th Circuit Court of Appeals sided with the plaintiff on appeal and removed the jurisdictional requirement that the plaintiff file an EEOC claim and exhaust administrative remedies before filing suit. This ruling was in keeping with similar rulings from nine other circuit courts of appeal. The court found that "while there is a requirement for a plaintiff to file a charge with the

EEOC before bringing suit, failure to do so does not constitute a jurisdictional bare to the claim. Rather, failure to file a claim is an affirmative defense that can be raised by a defendant in court on which the court had the discretion to decide (Hase)".

### What This Means for Counties

The change to the jurisdictional requirements for EEOC lawsuits means that counties face greater exposure to such suits and may have increased costs related to defending discrimination claims in court. It also means that claims beyond the 300-day window set by the EEOC may be filed in court if the plaintiff argues that the timeline be waived. Counties should consider the increased risk when dealing with EEOC claims and respond accordingly. For more information, contact CTSI at (303) 861 0507. [ctsi](http://www.ctsi.org)

*Source: 10th Circuit: Failure to File EEOC Claim No Bar to Lawsuit by Benjamin Hase, Esq. (www.employerscouncil.org).*