



## DFEH NEWS AND ALERTS

*May 13, 2022*

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### *Update RE California Department of Fair Employment & Housing Lawsuit Against Activision Blizzard*

Over the past year, two law enforcement agencies filed lawsuits against Activision Blizzard and its subsidiaries alleging sexual harassment and gender discrimination. The state lawsuit, based on California's Fair Employment & Housing Act (FEHA), was filed by the California Department of Fair Employment & Housing (DFEH) on July 20, 2021. Upon filing of the Complaint, DFEH commenced litigation against Activision Blizzard. Trial in that case is set for February 27, 2023.

The federal lawsuit, based on Title VII of the 1964 Civil Rights Act, was filed by the U.S. Equal Employment Opportunity Commission (EEOC) on September 27, 2021. The EEOC reached an agreement with Activision Blizzard called a Consent Decree and submitted the agreement to federal court for approval at the time the complaint was filed.

The Consent Decree was approved by the Federal District Court on March 29, 2022. The EEOC settlement provides for \$18 million to be divided amongst a potential class of more than 10,000 people defined to include every person employed by Activision Blizzard between September 1, 2016 and March 29, 2022, including male employees. The amount of compensation paid to any employee depends on the number of employees who participate in the EEOC settlement.

The DFEH case has not settled and continues to move forward. DFEH has opposed the EEOC settlement claiming it provides insufficient funds to women who experienced harassment and discrimination and that the settlement seeks to preclude any woman who participates in the EEOC settlement from receiving any monetary compensation from the DFEH state case.

Notably, DFEH has recently sought court approval of a proposed settlement in a different group/class gender discrimination and sexual harassment case against Riot Games for \$100 million with a potential of 2300 class members. The EEOC's settlement with Activision Blizzard provides \$18 million for a potential class in excess of 10,000. Under California law, there is no cap on the damages that can be awarded for sexual harassment. In contrast, federal law limits such damages to \$300,000 per person. Although the EEOC can only bring harassment and discrimination claims based on federal law, Title VII, the EEOC Consent Decree states that any employee who elects to participate in the federal lawsuit waives their right to receive compensation under state law through the DFEH lawsuit. That is, if you participate in the EEOC settlement, you will be asked to sign an agreement not to participate in the DFEH case no matter how much money, if any, is secured by DFEH. For these and other reasons, the DFEH is challenging the validity of the EEOC Consent Decree in federal appellate court.

It should be noted that the EEOC Consent Decree is an "opt-in" settlement, meaning it only binds those individuals who choose to participate and file a claim. In the meantime, the DFEH continues pursuing its claims against Activision Blizzard.

If you have any questions or concerns, please email DFEH at [Blizzard.DFEH@dfeh.ca.gov](mailto:Blizzard.DFEH@dfeh.ca.gov).

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