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**VIA ELECTRONIC & U.S. MAIL**

December 15, 2017

Joseph M. Windler  
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***Re: Theodore Haugland v. Viracon, Inc.***

Dear Joe:

I write in response to your letter dated December 4, 2017 threatening litigation against our client, Theodore Haugland, on behalf of your client, Viracon, Inc. This threat was transparently made in retaliation for our letters to Viracon dated September 25, 2017 and November 1, 2017 regarding Mr. Haugland's claims against Viracon for sexual orientation discrimination in violation of Title VII and the Minnesota Human Rights Act (MHRA).

Both Title VII and the MHRA prohibit retaliation on the basis of protected activity, including post-employment retaliation. *See, e.g., Robinson v. Shell Oil Co.*, 519 U.S. 337, 346 (1997) (holding that anti-retaliation protections under Title VII extend to former employees). Mr. Haugland engaged in protected activity when he filed a charge of discrimination with the EEOC and again when his attorneys sent Viracon letters putting the company on notice of Mr. Haugland's intent to bring Title VII and MHRA litigation on September 25, 2017 and November 1, 2017. Viracon responded in retaliation by threatening baseless litigation against Mr. Haugland by way of your letter dated December 4, 2017. Bringing legal action against an employee or former employee in retaliation for engaging in protected activity is a materially adverse action under federal employment anti-retaliation laws. *See, e.g., Bill Johnson's Restaurants v. NLRB*, 461 U.S. 731, 740 (1983); *Darveau v. Detecon, Inc.*, 515 F.3d 334, 343 (4th Cir. 2008); *Durham Life Ins. Co. v. Evans*, 166 F.3d 139, 157 (3d Cir. 1999); *Spencer v. Int'l Shoppes, Inc.*, 902 F. Supp. 2d 287, 296 (E.D.N.Y. 2012); *Illiano v. Mineola Union Free School Dist.*, 585 F.Supp.2d 341, 352 (E.D.N.Y. 2008); *Torres v. Gristede's Operating Corp.*, 628 F.Supp.2d 447, 473 (S.D.N.Y. 2008); *Rosania v. Taco Bell of Am., Inc.*, 303 F. Supp. 2d 878, 885 (N.D. Ohio 2004); *Jacques v. DiMarzio, Inc.*, 216 F. Supp. 2d 139, 144 (E.D.N.Y. 2002); *EEOC v. Virginia Carolina Veneer Corp.*, 495 F. Supp. 775, 779

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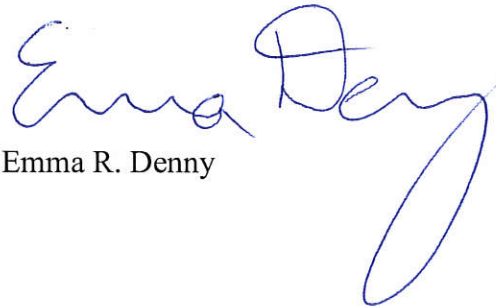
(W.D. Va. 1980); *Mohamed v. Sanofi–Aventis Pharmaceuticals*, 2009 WL 4975260, at \*25 (S.D.N.Y. Dec. 22, 2009); *Fei v. WestLB AG*, 2008 WL 594768, at \*3 (S.D.N.Y. Mar. 5, 2008); *Nesselrotte v. Allegheny Energy, Inc.*, 2007 WL 3147038, at \*12 (W.D. Pa. Oct. 25, 2007); *Kreinik v. Showbran Photo, Inc.*, 2003 WL 22339268, at \*7 (S.D.N.Y. Oct. 14, 2003).

Should Viracon follow through on its retaliatory threats by initiating litigation, Mr. Haugland will add a claim of retaliation/reprisal to his charge of discrimination currently pending with the EEOC. Mr. Haugland has already suffered significant financial damage as a result of Viracon's actions, as it appears the company contacted the domain hosting service used by Mr. Haugland and asked them to shut down all of the domain names registered to Mr. Haugland, which the hosting service then did. Mr. Haugland owns over 20 domain names unrelated to Viracon, which he uses for his business. Because all of his domain names have now been shut down as a result of Viracon's actions, the operations of his business have been completely shut down, causing him substantial financial harm. Therefore, even absent Viracon initiating baseless litigation against Mr. Haugland, he likely already has claims of retaliation and reprisal against the company under Title VII and the MHRA. *See* Minn. Stat. § 363A.15 ("A reprisal includes, but is not limited to, any form of intimidation, retaliation, or harassment.").

Should Viracon take any further retaliatory actions against Mr. Haugland, we will respond accordingly.

Best Regards,

**HALUNEN LAW**



Emma R. Denny