In January, the Supreme Court began hearing arguments for *Mach Mining v. Equal Employment Opportunity Commission*. The issue is whether or to what extent the courts can enforce the EEOC’s statutory obligation to conciliate discrimination claims before filing suit.

This case stems from a complaint sent to the EEOC by a female worker who attempted to get a mining position at Mach Mining. She was denied the job, and she alleged in her complaint to the EEOC that this denial was because of her gender. Mach Mining has never hired a woman for a mining position.

Pursuant to their statutory mandate, the EEOC investigated the charge, found reason to believe Mach Mining had discriminated against a class of women, and began informal conciliation. Ultimately, the parties could not reach an agreement, and the EEOC notified Mach Mining that it determined conciliation processes had failed and would not continue. The EEOC then sued on the complainant’s behalf in district court. When the suit commenced, Mach Mining answered, claiming 1) that unlawful discrimination did not occur, and 2) affirmative defenses, including the issue that the suit should be dismissed because the EEOC failed to conciliate in good faith. The good faith issue is the one before the Supreme Court.

After extensive litigation in the district court over whether lack of good faith was enough to dismiss the case, the EEOC moved for summary judgment on the question of whether alleged failure to conciliate is a proper affirmative defense. The district court denied the EEOC’s motion, but certified it for interlocutory review by the Seventh Circuit.

The Court of Appeals for the Seventh Circuit reversed the district court’s denial of summary judgment. It rejected the company’s affirmative defense and held instead that as long
as the EEOC pleaded that it complied with Title VII and the necessary documents are facially sufficient, judicial review is satisfied.

The circuits are split on the issue. Three circuits, the Second, Fifth, and Eleventh, use a three-part inquiry to determine the sufficiency of the conciliation process. Three other circuits, the Fourth, Sixth, and Tenth, require that the EEOC only meet the baseline good faith standard. The Seventh Circuit was the first to refuse to apply any review standard.

The outcome of this case has several important implications for how employment discrimination cases are reviewed. Some worry that upholding the Seventh Circuit makes the EEOC practically immune from review, incentivizing coercive settlement practices. Others believe that reversing the Seventh Circuit would create unnecessary barriers for resolving employment discrimination suits. Follow the progress of the case at http://www.scotusblog.com/case-files/cases/mach-mining-v-equal-employment-opportunity-commission/.

Sources: