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STATISTICS TELL US WHAT THE EEOC IS DOING THESE DAYS

The EEOC keeps track of what it's doing. Fiscal year statistics of filings in the various categories of discrimination show what's trending in the most active areas of "interest" for employees and the EEOC. With that in mind, employers often find it helpful to stay on top of trends in those charges.

Retaliation. The EEOC's statistics for 2011 reflect a continuing trend upward in retaliation charges. Retaliation charges are those which allege that an employee was retaliated against for complaining of discrimination or otherwise exercising rights protected under anti-discrimination laws. In the past 15 years charges have increasingly included claims of at least one kind of retaliation. In 1997, only 22.6% of all charges included one or more retaliation claims, but in 2011, 37.4% of all charges have included a retaliation claim.

Disability Discrimination. EEOC charges based on disability discrimination have increased in recent years from a low of 18.9% in 2002 to the highest in recent years in 2011 at 25.8%.

Race Discrimination. Race remains the most steady and consistent basis for EEOC charges. Race discrimination claims have historically hovered between 35% and 37% of all charges. In 2011, the number stood nearly still at 35.4%.

Discrimination Based on Color. Claims for discrimination based on "color" in 2011 stood at the same percentage as in the previous year: 2.8%.

Sex Discrimination. This is another steady and consistent basis for EEOC charges. Sex discrimination claims typically are represented in about 30% of all EEOC charges. However, there is a slight trend downward in such claims, declining from 30% in 2009 to 28.5% in 2011. The percentages are consistent with a steady decline over time. There were 11,364 charges containing sexual harassment claims in 2011. Of those, 16.3% of were filed by males.

Age Discrimination. Age discrimination, as a percentage of all EEOC charges, has remained fairly steady but slightly higher than in 2010. In 2011, claims for age discrimination appeared in 23.5% of all EEOC charges.

National Origin Discrimination. A relatively small percentage of all charges includes national origin discrimination. This type of charge has increased too, however. In 2011, it appeared in 11.8% of all charges.

Religious Discrimination. Last year showed a slight increase in claims for religious discrimination. While such claims remain a small fraction of all charges, they appeared in 4.2% of the EEOC's charges. Interestingly this is the highest percentage in recent years and up from 3.8% in the previous year.

EEOC Lawsuits. The EEOC filed 300 federal lawsuits on behalf of employees in 2011, the largest number of which involved Title VII claims, followed by the Americans with Disabilities Act and then the Age Discrimination in Employment Act. By comparison, the EEOC filed 271 lawsuits in 2010.

What Employers Should Think About. The EEOC's statistics highlight specific categories of discrimination that are more likely than others to generate claims. The big ones are: **disability; age; sex; and race** discrimination along with the growing trend of **retaliation** claims. The statistics highlight the importance of reducing the likelihood of having to defend one of these claims. Effective management training, updating and adherence to personnel policies, detailed documentation of discipline, and consistency of personnel actions are the keys to avoiding claims and winning them if you do have to defend. Regardless of the EEOC's statistics, if Human Resource leaders follow these simple tips the organization will be a better place for all - employees, families, customers and the community.

If you have questions about this topic, please contact Jon Rabin at 248.457.7835 or jrabin@hallrender.com, or your regular Hall Render attorney.