

KD Alert: US EEOC Continues to Break Its Own Records

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Another year, another increase in business jarring employment discrimination claims. Charges received by the U.S. Equal Employment Opportunity Commission ("EEOC") continue to spike. The agency responsible for enforcing federal workplace laws reports that a record number (yet again) of discrimination charges were filed in the 2011 fiscal year (which ended September 30, 2011). The nearly 100,000 charges were the highest number received in the EEOC's 46-year history. It follows another record-breaking year.

Religious discrimination charges saw the biggest percentage increase, with charges rising approximately 9 % from 2010. This increase is believed to be largely attributable to the increasingly diverse national workforce. Across the board, increases were also seen in allegations of national origin, age, and disability discrimination. Retaliation charges rose to the highest number filed (37,334), followed closely by race discrimination (35,395).

The EEOC also reports that through its enforcement actions, it secured more than \$455 million from employers in 2011 – the most in EEOC history. Enforcement of the Americans with Disabilities Act produced the highest increase in monetary relief among all of the statutes the EEOC enforces, with more than \$103 million secured for workers complaining of disability discrimination. Tracking charges under the Americans With Disabilities Amendments Act will most likely begin next year inasmuch it only became effective in November 2011.

Notably, in its full fiscal year of enforcement, the EEOC received 245 charges under the Genetic Information Nondiscrimination Act, which prohibits discrimination on the basis of genetic information, including family history.

As employees continue to file record numbers of discrimination claims, it is imperative for employers to ensure that they are deploying their "best practices" to help avoid potential exposures. Having appropriate procedures in place for communicating and investigating internal complaints of discrimination and harassment can help prevent and address disgruntled employees complaints before they escalate. A best practices program must also include ongoing managerial and supervisory claims avoidance training.

KD is available to assist employers with the development of a best practices program. Please contact Keith Gutstein Esq., Philip R. Voluck, Esq., or any of the attorneys in KD's Labor and Employment Practice Group with questions about your rights and obligations under the relevant discrimination laws.

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