

Discrimination Charges Against Employers Hit Record High in 2010

02.14.2011

[Laura Broughton Russell](#)

[David L. Woodard](#)

The Equal Employment Opportunity Commission (EEOC) has recently released its charge statistics for fiscal year 2010 (which ended September 30, 2010). The EEOC enforces federal laws prohibiting employment discrimination, which includes Title VII of the Civil Rights Act of 1964, the Equal Pay Act, the Age Discrimination in Employment Act, the Americans with Disabilities Act, and the Genetic Information Nondiscrimination Act.

Not surprisingly, these statistics reveal a record-breaking number of charges of workplace discrimination filed against private sector employers in 2010. The number of charges filed hit 99,922, an unprecedented number which amounts to a more than 7% increase over the previous year's filings. The somber economy and the accompanying layoffs in 2009 and 2010 may be behind this increase, as well as the EEOC's expansion of educational training and other outreach efforts to approximately 250,000 persons.



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What the Statistics Foreshadow for 2011

- In its release, the EEOC noted its “concerted effort to build a strong national systemic enforcement program,” which resulted in 465 systemic investigations, involving more than 2,000 charges, being undertaken. This emphasis on systemic or class-wide discrimination means the EEOC is devoting more of its resources to bringing more multiple plaintiff cases against employers. This trend is expected to continue.
- The new Genetic Information Nondiscrimination Act resulted in 201 charges being filed. Significantly more charges are expected in this area in 2011, due to the release of the accompanying regulations at the end of 2010 and the continuing publicity about and public awareness of this law.
- Disability discrimination claims numbered 25,165 in 2010, which constituted slightly more than 25% of all claims filed with the EEOC. With the recent expansion of the Americans with Disabilities Act (ADA) by the ADA Amendments Act, and the anticipated 2011 release of the accompanying regulations, claims in this area are expected to continue to increase.

Some Final Observations

The EEOC has been energized by the December 2010 Senate confirmations of its new Chair, as well as its General Counsel and two new Commissioners. The EEOC now has a full complement of members, which it has been lacking for quite some time. In addition, the EEOC recently has added to its front-line staff. Notably, the EEOC recently has held two significant Commission meetings during which it explored the use of credit



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histories as employment screening devices, and the impact of the economic situation on older workers. By reviewing their employment decisions in advance with counsel, as well as generally reviewing their employment policies and practices to ensure compliance with the law, employers can lower the risk of expensive and onerous legal proceedings filed by individuals and by the EEOC.



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301 Fayetteville St., Suite 1900, Raleigh, NC 27601/P.O. Box 1801, Raleigh, NC 27602-1801 **P: 919.783.6400 F: 919.783.1075**