

EEOC Announces Results for 2009
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By Jo Vestal

On January 6, 2010, the U.S. Equal Employment Opportunity Commission (EEOC) announced its results for Fiscal Year (FY) 2009. See <http://www.eeoc.gov/eeoc/statistics/enforcement/index.cfm>.

The EEOC announced that 93,277 charges of workplace discrimination were filed in FY 2009. This is the second highest number ever. It also announced that it obtained over \$376 million in monetary relief for charging parties and others in FYI 2009, of which \$294 million was obtained through administrative enforcement and mediation.

Charges against private sector employers alleging discrimination on the basis of disability, religion and/or national origin reached their highest level ever, with charges of age discrimination close behind. However, the most frequently filed charges were for discrimination based on race (36%) retaliation (36%) and sex (30%). (Since charge parties usually claim discrimination on more than one status these numbers will add up to more than 100%.)

Why was the EEOC so active? There are a number of factors resulting in more charges filed as economic conditions resulted in more personnel actions and the inability of people to find alternate employment, increasing diversity in the workforce, new laws enforced by the EEOC (i.e. American With Disabilities Act Amendments Act of 2008 (ADAAA), Genetic Information non-Discrimination Act of 2008 (GINA), etc.), the change in administration and EEOC leadership, increased funding for the EEOC and hiring of additional staff at the agency, and perhaps employers being less vigilant about their personnel practices. A recent example of effort by the EEOC is a \$19 million dollar settlement with Outback Steakhouse in a glass-ceiling case announced by the agency on 12/29/2009. The case was brought on behalf of thousands of former Outback female employees who were not promoted to management. In addition to the \$19 million payment the settlement requires significant changes to Outback's promotion practices and external monitoring at all of its 950 Outback locations which are in the U.S.

The takeaway from this information is that employers are at increased risk of receiving an EEOC charge and the EEOC appears to be more aggressive than they have been in the recent past. Dealing with an EEOC charge can be a disruptive and costly experience, so employers should review their personnel practices to insure they are not vulnerable to challenge.