



## **EEOC's FY 2011 Enforcement Statistics**

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**By Gwen Morales**

Last month, the Equal Employment Opportunity Commission (EEOC) issued a **press release** detailing its **final statistics for fiscal year 2011**, which ended September 30, 2011. In that press release, entitled "Private Sector Bias Charges Hit All-Time High," the EEOC announced that in fiscal year 2011 the agency:

- Received a record 99,947 charges of employment discrimination
- Obtained \$91 million in relief from its litigation efforts, and \$455.6 million in relief through its combined enforcement, mediation, and litigation programs
- Resolved 112,499 charges – representing, for the second year in a row, a greater number of charges resolved than charges received
- Set new records in its mediation program, with both a record number of resolutions (9,831) and benefits (\$170 million)
- Filed 300 lawsuits, 261 of which were "merits" lawsuits (defined as direct suits and interventions by the EEOC alleging violations of the substantive provisions of the statutes it enforces, as well as suits to enforce administrative settlements), and 39 of which were subpoena enforcement or other actions. Of the 261 merits lawsuits, 23 were large class actions involving allegations of systemic discrimination
- Conducted public outreach and education programs reaching approximately 540,000 people

As the statistics reflect, charges of retaliation were the most numerous in fiscal year 2011, with 37.4% of the 99,947 total charges containing allegations of retaliation under any of the statutes enforced by the EEOC. Charges containing allegations of race and sex discrimination were the second and third most numerous, with 35.4% and 28.5% of all charges received containing such allegations, respectively. Notably, although allegations of race and sex discrimination were still quite numerous, these numbers actually represent a slight decline from the previous year. In contrast, the number of charges containing allegations of age and disability discrimination increased in fiscal year 2011, with 23.5% and 25.8% of total charges received, respectively, containing such allegations. The press release also highlights the newest anti-discrimination statute the EEOC is responsible for enforcing – the Genetic Information Nondiscrimination Act (GINA). In its first full year of enforcing GINA, the EEOC received 245 charges alleging violations of that Act.



With regard to disability discrimination, the increase of charges containing such allegations is not a surprise, as charge activity in this area has been steadily increasing over the past three years. In addition, disability discrimination, as the press release indicates, has been a major focus of the agency's recent enforcement efforts. As the press release states, the EEOC's "enforcement of [the] Americans with Disabilities Act (ADA) produced the highest increase in monetary relief among all of the statutes [enforced by the EEOC]: the administrative relief obtained for disability discrimination charges increased by almost 35.9% to \$103.4 million compared to \$76.1 million in the previous fiscal year."

The EEOC's press release does not make any predictions for 2012. However, considering that fiscal year 2011 was the second year in a row that the EEOC received a record number of new charges of discrimination and the fourth year in a row that it received well above 90,000 charges, and considering the agency's aggressive outreach and education efforts, it is unlikely that we will see the number of charges decrease significantly in the upcoming year. It is likely, however, that we will see changes in the EEOC's approach to these charges, as necessitated by a reduction of \$7.3 million in the agency's funding for fiscal year 2012.

As EEOC Chair Jacqueline Berrien remarked, in 2011, even with a record number of new discrimination charges, "the hard work of our employees, combined with increased investments in training, technology and staffing in 2009 and 2010, and strategic management of existing resources made 2011 a year of extraordinary achievements for the EEOC." In 2012, in contrast, investments in training, technology, and staffing are unlikely to be top priorities. Instead, the creative and strategic management of resources will be crucial for the EEOC, and will likely result in a focus by the agency on class action litigation of claims of systemic discrimination.

### **More Information**

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