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2014 EEOC Enforcement and Litigation Statistics: Retaliation Claims on the Rise

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February 17, 2015

On February 4, the EEOC released a comprehensive set of private sector data for fiscal year 2014.¹ The data tables provide detailed breakdowns of the 88,778 charges of workplace discrimination filed with the agency. While the total number of discrimination claims filed decreased compared to recent fiscal years,² claims alleging retaliation reached a record high.

EEOC Enforcement and Litigation Breakdown for FY 2014:³

- Retaliation 42.8%
- Race 35%
- Sex 29.3%
- Disability 28.6%
- Age 23.2%
- National Origin 10.8%
- Religion 4%
- Color 3.1%
- Equal Pay Act 1.1%
- Genetic Information Non-Discrimination Act (GINA) 0.4%

The EEOC cites the government shutdown as one explanation for the decreased number of charges filed in 2014. In fact, the EEOC estimates that first quarter charge filings – the period of time incorporating the government shutdown – were 3,000 to 5,000 less than the other quarters. However, this decrease appears to be an anomaly; the total charges filed for fiscal year 2015 will likely rebound to numbers more consistent with recent fiscal years.

Followers of the EEOC Charge Statistics may have noticed the rising number of retaliation charges, with retaliation eclipsing race discrimination as the top charge in fiscal year 2010 and maintaining the top position ever since. Consistent with the drop in total charge filings, the total number of retaliation claims saw a small dip, but retaliation's share of the total charges actually rose 1.7%, representing the greatest increase for any discrimination charge between fiscal year 2013 and 2014.

Employers should take two salient points away from the EEOC's report. First, the decrease in the total number of discrimination charges filed with the EEOC in fiscal year 2014 is likely an anomaly. Employers should not interpret this as a signal that the specter of workplace discrimination charges is abating. Second, discrimination claims based on alleged retaliation will continue to rise. Employers should consider reviewing their compliance strategies to ensure that their internal policies reflect this trend.

¹ The fiscal year ran from October 1, 2013 to September 30, 2014.

² The total charges are down from 93,727 in FY 2013; 99,412 in FY 2012; 99,947 in FY 2011; and 99,922 in FY 2010.

³ According to the EEOC, "These percentages add up to more than 100 because some charges allege multiple bases, such as discrimination on the bases of race and color, or sex and retaliation."