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The EEOC is Actively Targeting the Construction Industry

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Risks and potential liabilities in the construction industry are not new. Construction participants know the typical hot spots: Projects are delayed. Supply chain issues raise materials costs. Owners and general contractors dispute the effects of changes in the scope of work. Employees get injured.

Be aware that workplace conduct and practices are increasingly a priority and focus for governmental intervention, resulting in increased risk management attention on the construction industry. The Equal Employment Opportunity Commission (EEOC) is watching, and if you are not prepared, you could be liable for hundreds of thousands of dollars related to how your employees interact with each other. We recommend you immediately review your employment policies and procedures, and consider updating your training practices.

In May 2022, the EEOC held a [Commission hearing](#) on discrimination and harassment in the construction industry. The hearing focused on identifying and addressing inequities in an industry that the EEOC believes has been historically overlooked when it comes to balancing the scales.

The EEOC stated it was committed to scrutinizing the construction industry and holding it to a higher standard than in the past. Based on recent lawsuits, the EEOC is upholding its commitment by looking across the country and filing lawsuits to showcase examples of behavior it wants the industry to correct. Here are some examples.

- In [Mississippi](#), the EEOC filed a lawsuit against a staffing agency and shipbuilder alleging that female employees working in a shipyard experienced a sexually hostile work environment and subsequent retaliation when they reported the abusive behavior. In July 2022, the parties settled the matter with a consent decree. According to the terms, the companies are required to pay \$350,000, create or revise their policies and procedures pertaining to sexual harassment, and require mandatory employee training regarding those policies. Under the consent decree, the companies will continue to be monitored and scrutinized by the EEOC for 30 months.
- In [Florida](#), the EEOC filed two individual race discrimination and retaliation lawsuits against Florida-based construction companies in September 2022. Both companies' management level employees were alleged to have used derogatory and abusive language to describe employees of color. In one instance, a manager reportedly physically assaulted a Black employee. When the employees reported these incidents, they were fired. The lawsuits are still ongoing.
- In [Texas](#), the EEOC filed a lawsuit against a construction company for discrimination and retaliation against a Black employee. The employee's supervisor allegedly used derogatory language and made racist "jokes." The company failed to act even after the employee reported the discrimination. In December 2022, a three-year consent decree was entered that requires the company to pay \$250,000, revise its anti-discrimination policies and properly distribute them to employees, provide its employees with training about workplace discrimination, and post discrimination notices around jobsites.

- In [California](#), the EEOC filed a lawsuit in September 2022 against a construction company for harassment of and retaliation against Latino employees based on their national origin, as well as claims for racial discrimination and sexual harassment. The allegations include abusive and derogatory language toward Latino workers, anti-Latino graffiti with offensive imagery on the job sites, threats of sexual assaults toward Latino employees, and termination of those employees when they complained. The lawsuit is still ongoing.
- In [North Carolina](#), the EEOC brought a lawsuit at the end of June 2022 against a construction company for religious discrimination, harassment, and retaliation. The company allegedly required employees to participate in religious Christian prayer sessions and retaliated against those who would not participate. The EEOC seeks compensatory and punitive damages and aims to end the ongoing religious discrimination at the company. The lawsuit is still ongoing.
- In [Nevada](#), the EEOC settled a sexual harassment lawsuit in October 2022 against a construction company and other related businesses. According to the EEOC, the company subjected Spanish-speaking women to a hostile work environment and sexual harassment. The women were allegedly retaliated against if they rejected sexual advances by other employees. The company entered into a two-and-a-half-year consent decree that required it to pay \$500,000 in damages, provide sexual harassment treatment training to human resources employees and management, and post a notice about the lawsuit.
- In [Texas](#), the EEOC settled a systemic race, national origin, sexual harassment, and retaliation lawsuit in August 2022 brought against four national construction companies. The EEOC alleged that employees who complained about the harassment, as well as those who associated with the complaining employees, were terminated. The companies will pay \$1.75 million to the victims and are required to review and revise their discrimination and retaliation policies, post an anti-discrimination notice, provide training on harassment and retaliation to all their employees, discipline upper management for retaliatory conduct and terminate the harasser, and report its compliance in detail for the next three years.
- In [Wisconsin](#), the EEOC settled a lawsuit in June 2022 against a construction company for racial harassment and retaliation. The lawsuit alleged that the company created a hostile work environment for Black employees and fired employees who complained about the abuse. According to the terms of the settlement agreement, the company must pay \$140,000 to the victims and an equal employment opportunity officer has been appointed to handle any future complaints that may arise at the company.

The construction industry is a multi-dimensional field with endless opportunities for people from many different backgrounds. To foster an environment that promotes diversity and inclusivity, it is important to review how a construction company handles situations that could threaten an employee's safety and security. There are many effective and preventive action items a company can take, such as reviewing and modifying mandatory policies and procedures, requiring mandatory employee training, and providing accommodations for employees with disabilities and/or sincerely held religious beliefs.

Baker Donelson will continue to monitor the EEOC's investigations of construction companies. If you have questions about this topic or need assistance with implementing any of these recommendations, please reach out to [Cameron S. Hill](#) or [Maia Fleischman](#).