UNITED STATES
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

OFFICE OF GENERAL COUNSEL

FISCAL YEAR 2015 ANNUAL REPORT

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I. Structure and Function of the Office of General Counsel

A. Mission of the Office of General Counsel

The Equal Employment Opportunity Act of 1972 amended Title VII of the Civil Rights Act of 1964 (Title VII) to give litigation authority to the Equal Employment Opportunity Commission (EEOC or Commission) and provide for a General Counsel, appointed by the President and confirmed by the Senate for 4-year term, with responsibility for conducting the Commission's litigation program. Under a 1978 Presidential Reorganization Plan, the General Counsel became responsible for conducting Commission litigation under the Equal Pay Act of 1963 (EPA) and the Age Discrimination in Employment Act of 1967 (ADEA) (both formerly enforced by the Department of Labor). Subsequently, the General Counsel's authority was extended to Commission litigation under the employment provisions of the Americans with Disabilities Act of 1990 (ADA) (Title I; effective July 26, 1992) and the employment provisions of the Genetic Information Nondiscrimination Act of 2008 (GINA) (Title II; effective November 21, 2009)

The mission of EEOC's Office of General Counsel (OGC) is to conduct litigation on behalf of the Commission to obtain relief for victims of employment discrimination and ensure compliance with the statutes EEOC is charged with enforcing. Under Title VII, the ADA, and GINA the Commission can sue nongovernmental employers with 15 or more employees. The Commission's suit authority under the ADEA (20 or more employees) and the EPA (no employee minimum, but for most private employers $500,000 or more in annual business) includes state and local governmental employers. Title VII, the ADA, GINA, and the ADEA also cover labor organizations and employment agencies, and the EPA prohibits labor organizations from attempting to cause an employer to violate that statute. OGC also represents the Commission on administrative claims and litigation brought by agency applicants and employees.

B. Headquarters Programs and Functions

1. General Counsel

The General Counsel is responsible for managing, coordinating, and directing the Commission's enforcement litigation program. He or she also provides overall guidance and management to all components of OGC, including district office legal units. The General Counsel recommends cases for litigation to the Commission and approves other cases for filing under authority delegated to the General Counsel under

the Commission's December 2012 Strategic Enforcement Plan. The General Counsel provides reports regularly to the Commission on litigation activities, and advises the Chair and Commissioners on agency policies and other matters affecting enforcement of the statutes within the Commission's authority.

2. Deputy General Counsel

The Deputy is responsible for overseeing all programmatic and administrative functions of OGC, including the litigation program. OGC functions are carried out through the operational program and service areas described below, which report to or through the Deputy.

3. Litigation Management Services

Litigation Management Services (LMS) oversees and supports the Commission's court enforcement program in the agency's district offices. In conjunction with EEOC's Office of Field Programs, LMS also oversees the integration of district office legal units with the offices' investigative staffs. LMS provides direct litigation assistance to district office legal units, drafts guidance, develops training programs and materials, and collects and creates litigation practice materials. LMS also reviews proposed suit filings by regional attorneys, and drafts litigation recommendations to the General Counsel for approval or submission to the Commission. LMS reviews various other field litigation related matters, such as requests to contract for expert services and proposed resolutions in cases in which the General Counsel has retained settlement authority. LMS contains a unit that provides technical support to field offices in matters such as producing, receiving, and organizing electronically stored information in discovery, extracting and preserving digital media, and collecting and preserving information from social media sites.

4. Internal Litigation Services

Internal Litigation Services represents the Commission and its officials on claims brought against the Commission by agency employees and applicants for agency jobs, and provides legal advice to the Commission and agency management on employment-related matters.

5. Appellate Services

Appellate Services (AS) is responsible for conducting all appellate litigation where the Commission is a party. AS also participates as amicus curiae, as approved by the Commission, in United States courts of appeals, as well as federal district courts and state courts, in cases involving novel issues or developing areas of the law. AS represents the Commission in the United States Supreme Court through the Department of Justice's Office of the Solicitor General. AS also makes recommendations to the Department of Justice in cases where the Department is defending other federal agencies on claims arising under the statutes the Commission enforces. AS reviews EEOC policy materials, such as proposed regulations and enforcement guidance drafted by the Commission's Office of Legal Counsel, prior to their issuance by the agency.

6. Research and Analytic Services

Research and Analytic Services (RAS) provides expert and analytical services for cases in litigation, assists EEOC attorneys in obtaining expert services from outside the agency, and provides technical support to field staff investigating charges of discrimination. RAS has a professional staff with backgrounds and advanced degrees in areas such as economics, statistics, and psychology, who serve as consulting and testifying experts on cases in litigation. RAS also provides services to other agency offices, such as conducting social science research on issues related to civil rights enforcement, advising the agency on the collection of workforce data, and developing and maintaining special census files by geography, race/ethnicity and sex, and occupation.

7. Administrative and Technical Services Staff

OGC's Administrative and Technical Services Staff (ATSS) provides administrative and technical services to all headquarters components of OGC. ATSS also is responsible for preparing the OGC budget request to the EEOC Chair for submission to the Office of Management and Budget and Congress as well as for handling various budget execution duties such as transferring funds to district offices and monitoring expenditures. ATSS coordinates with EEOC's procurement division in contracting for expert and other services that due to the cost (over $25,000) require headquarters approval.

C. District Office Legal Units

District office legal units conduct Commission litigation in the geographic areas covered by the respective offices and provide legal advice and other support to district staff responsible for investigating charges of discrimination. In addition to the district office itself, OGC Trial Attorneys are stationed in most of the field, area, and local offices within districts. Legal units are under the direction of Regional Attorneys, who manage staffs consisting of Supervisory Trial Attorneys, Trial Attorneys, Paralegals, and support personnel.

I. Fiscal Year 2015 Accomplishments

In fiscal year 2015, OGC filed 142 merits lawsuits and resolved 157, obtaining over $65 million in monetary relief. Section A below contains summary statistical information on the fiscal year's trial court litigation results (more detailed statistics appear in part III of the Annual Report). Sections B and C contain descriptions of selected trial and appellate cases.

A. Summary of District Court Litigation Activity

OGC filed 142 merits suits in FY 2015. Merits suits consist of direct suits and interventions alleging violations of the substantive provisions of the Commission's statutes, and suits to enforce settlements reached during EEOC's administrative process. One intervention and two suits to enforce administrative settlements were filed during the fiscal year; the rest of EEOC's merits suits were direct actions. In addition to merits suits, OGC filed 32 actions to enforce subpoenas issued during EEOC investigations.

OGC's FY 2015 merits suit filings had the following characteristics:

83 contained claims under Title VII (58.5%)
7 contained claims under the EPA (4.9%)
13 contained claims under the ADEA (9.2%)
52 contained claims under the ADA (36.6%)
1 contained claims under GINA (.7%)
45 sought relief for multiple individuals (31.7%)

The above claims exceed the number of suits filed (and percentages total over 100) because cases sometimes contain claims under more than one statute. There were 14 (9.9%) of these "concurrent" suits among the FY 2015 filings.

OGC resolved 157 merits suits in fiscal year 2015, resulting in monetary relief of $65,378,820. These resolutions had the following characteristics:

86 contained claims under Title VII (54.8%)
1 contained claims under the EPA (.6%)
12 contained claims under the ADEA (7.6%)
64 contained claims under the ADA (40.8%)
1 contained claims under GINA (.6%)

49 cases sought relief for multiple individuals (31.2%)
6 were concurrent suits (3.8%)

Part III of the Annual Report contains detailed statistical information on OGC's FY 2015 litigation activities, as well as summary information for past years.

B. Selected District Court Resolutions

1. Title VII

a. Race Discrimination

(1) Discharge

In *EEOC v. BMW Manufacturing Co., LLC*, No. 7:13-cv-01583 (D.S.C. Sept. 8, 2015), EEOC alleged that an international automobile manufacturer excluded African American logistics employees from its Spartanburg, South Carolina, manufacturing facility through the application of criminal conviction guidelines that had a disparate impact based on race. Logistics workers unload and inventory autoparts. BMW changed logistics providers in 2008, and required logistics employees to reapply and undergo criminal background checks. In May and June 2008, the new logistics provider performed criminal record checks on approximately 700 current logistics employees. African American logistics employees were disproportionately excluded by BMW's conviction guidelines: the disparities between black and white and black and nonblack employees disqualified under the guidelines each exceeded 4 standard deviations.

A 3-year consent decree applicable to the Spartanburg facility provides $1.6 million to 56 discharged African American logistics employees, with distribution amounts determined by EEOC, and enjoins BMW from use of the criminal conviction guidelines in effect at the time of the 2008 change in logistics providers. BMW, in coordination with its logistics provider, will offer reinstatement, with no loss of seniority, to discharged logistics providers who express an interest in employment, subject to BMW's and the logistics provider's general job qualifications, including eligibility under BMW's current criminal background check guidelines. The consent decree also resolves Commissioner Charges filed against BMW and the new logistics provider, and provides that BMW and the logistics provider will offer employment to up to 90 "other applicants" denied employment at the facility under BMW's prior conviction guidelines. Prior to declining to hire or otherwise disqualifying any applicant for a logistics position based on criminal history, BMW and its logistics provider will offer the individual an opportunity to provide additional information regarding his or her

suitability for employment. Before decisions disqualifying applicants for logistics positions based on criminal history become final, an official with independent authority to reverse the decision will review them. The decree contains extensive record retention and reporting requirements for BMW and its logistics provider.

(2) Harassment

In *EEOC v. Battaglia Distributing Corp., Inc.,* No. 1:13-cv-05789 (N.D. Ill. Nov. 10, 2014), EEOC alleged that a Chicago, Illinois, wholesale food distributer subjected black employees in its warehouse and delivery operations to a racially hostile work environment that included racist slurs and jokes by coworkers, supervisors, and a coowner. Employees complained to supervisors and a coowner about use of the term "nigger" in the workplace, but the conduct continued. A 4-year consent decree provides $735,000 in compensatory damages to approximately 20 employees with payments determined by criteria set out in the decree. The decree enjoins defendant from race discrimination and racial harassment, and prohibits retaliation for opposition to race discrimination. Every 6 months, defendant will report to EEOC on complaints of racial discrimination received and the resolution, and on the race of individuals hired and their hours worked and pay rates.

b. Race and National Origin Discrimination

(1) Hiring and Referral

In *EEOC v. Local 28 of The Sheet Metal Workers' Int'l Ass'n*, No. 71-cv-02877 (S.D.N.Y. July 21, 2015), EEOC replaced the U.S. Department of Justice in a longrunning, and still active, suit alleging systemic race and national origin discrimination by defendant Local 28 -- the trade union for sheet metal journeypersons in New York City -- and others against black and Hispanic individuals. The case involves disparities in work opportunities provided to black and Hispanic (collectively "nonwhite") sheet metal workers, compared to those provided to white workers. In a number of rulings beginning in 1975, the district court found that Local 28 discriminated against nonwhite journeypersons on the basis of race and ordered various remedies.

In 2008, the parties negotiated a settlement of $6.2 million for eligible backpay claimants for the period January 1, 1984, through March 31, 1991. A 5-year consent order supplements the 2008 settlement and provides backpay to 394 black and Hispanic building trades journeyperson members of Local 28 who were underemployed during

the period April 1, 1991, through June 30, 2006. Local 28 will make an initial payment of approximately $4.2 million into a settlement fund that will be distributed in accordance with a July 17, 2015, court order. Throughout the 5-year term of the consent order, Local 28 will make additional payments to the fund based on hours worked by building trades journeypersons or apprentices of Local 28, and distribute the funds to the backpay recipients annually. Total payments into the fund are estimated at about $12.7 million, including attorney's fees to plaintiff-interveners capped at $1.2 million. The decree also provides opportunities for backpay recipients to earmark portions of their backpay awards towards restored pension credit.

In *EEOC v. New Koosharem Corporation and Real Time Staffing Corp.*, No. 2:13-cv-02761 (W.D. Tenn. Dec. 5, 2014), EEOC alleged that providers of temporary staffing services denied placements and referrals to African American and non-Hispanic applicants because of their race and national origin. The suit alleged that at three Memphis, Tennessee, locations defendants gave referral and hiring preferences to Hispanic applicants, passing over African American and non-Hispanic applicants who applied earlier or were better qualified. A 3-year consent decree provides $580,000 (half backpay and half compensatory damages) to a class fund, with EEOC allocating the money among affected individuals. The decree applies to six Real Time Staffing locations, and enjoins defendants from discriminating against applicants and temporary workers based on race and national origin in referral or placement for employment, and from retaliation. Defendants will develop an application process, described in the decree, to record information relevant to the treatment of walk-in applicants. Defendants will report to EEOC on applications and terminations, and will conduct an audit every 6 months to assess whether applicants are being referred in the order in which they signed required log-in sheets.

(2) Harassment

In *EEOC v. Patterson-UTI Drilling Co., LLC* , No.1:15-cv-00600 (D. Colo. April 17, 2015), EEOC alleged that an operator of land-based oil and gas drilling rigs in the Western and Midwestern United States, subjected black, Hispanic, Native American, Asian, and Native Hawaiian or other Pacific Islander employees to a hostile work environment and disparate terms and conditions of employment due to race, color, or national origin, and retaliated against individuals who complained of discriminatory treatment. The aggrieved employees were subjected to continuous offensive verbal comments and slurs ("nigger," "wetback," "horse thief") and jokes, as well as racist graffiti in the restrooms, KKK tattoos, swastikas drawn on hardhats and lockers, and open display of nooses. The conduct also included physical assaults. Employees reported the offensive

conduct to managers, but defendant failed to take effective corrective action. Other alleged discrimination included assignments to menial tasks; denials of promotions, training, and advancement opportunities; unfair discipline; and discharges for unwarranted reasons. Some individuals were transferred or discharged in retaliation for reporting the discriminatory conduct.

A 4-year consent decree applicable to all of defendant's facilities provides for $12,260,000 to be distributed, in accordance with criteria identified by EEOC, to individuals employed by defendant at any time from January 1, 2006, to the effective date of the decree. The decree permanently enjoins defendant from discrimination based on race, color, and/or national origin and from retaliation. Defendant will create a new vice president position with responsibility for monitoring compliance with the decree and reviewing personnel actions. Defendant will conduct random interviews with 20% of its drilling rig and trucking employees regarding the treatment of minorities in the workforce, and will conduct exit interviews of all minority employees who leave defendant to ensure that discrimination is not continuing.

In *EEOC v. Dart Energy Corp., Beckman Production Services, Inc., J&R Well Service, LLC,* No. 13-cv-00198 (D. Wyo. Dec. 1, 2014), EEOC alleged that operators of oil and natural gas wells subjected black, Native American, and Hispanic employees to hostile work environments and disparate terms and conditions of employment because of their race or national origin, and retaliated against employees who opposed the discriminatory conduct or participated in EEOC's processes. The affected employees worked either in defendants' shop or on oil rigs in Edgerton, Wyoming. Managers and coworkers regularly called Native Americans names such as "dumb Indian," "redskin," and "rug burner"; Hispanic employees names such as "burrito boy," "wetback," and "beaner"; and black employees "nigger." Affected workers were also disciplined more harshly than white employees for similar infractions, and were assigned fewer hours, demoted, and discharged because of their race or national origin. Some employees resigned due to the offensive conduct. Defendants disciplined, demoted, and discharged employees in retaliation for complaining about discrimination or filing discrimination charges.

A 3-year consent decree, applicable to defendants' Wyoming operations, provides $955,000 in backpay and compensatory damages to 17 individuals and $245,000 to attorneys representing 11 intervenors. Defendants will revise their employment records to indicate that each of the 17 individuals is eligible for rehire. Defendants are enjoined from race and national origin discrimination and from retaliation. Defendants Beckman and J&R, in consultation with an outside expert, will review and revise their EEO policies to contain provisions detailed in the decree; establish a toll-free bilingual hotline for employees of J&R to anonymously report harassment and retaliation; and

develop an annual anonymous workplace survey of Edgerton employees on race and national origin discrimination and retaliation in the workplace.

In *EEOC v. NFI Interactive Logistics LLC, d/b/a National Freight Industries*, No. 1:14-cv-07569 (N.D. Ill. June 9, 2015), EEOC alleged that a national provider of logistics, warehousing, and distribution services subjected a logistics coordinator to a hostile work environment due to his race, black, and national origin, Ghanaian, and subjected other black employees (mainly truckdrivers) at its Bolingbrook, Illinois, distribution facility to a racially hostile work environment. Managers referred to black employees as "nigger" and "ass monkey." Graffiti on trailers contained comments such as "monkeys go back to Africa." Managers mocked the logistics coordinator's formal way of speaking English, imitated his accent, and made derogatory comments about Africa. An 18-month consent decree provides $180,000 in compensatory damages ($80,000 to the logistics coordinator and the rest to four other individuals), and enjoins defendant at its Minooka, Illinois, facility (the Bolingbrook facility closed) from race discrimination and racial and national origin harassment.

In *EEOC v. Seapod Pawnbrokers, Inc., d/b/a Seapod Pawnbrokers; Seapod Capital Group, LLC, d/b/a Seapod Pawnbrokers*, No. 14-cv-4567 (E.D.N.Y. Feb. 12, 2015), EEOC alleged that defendants, operators of seven pawnshops/loan stores in Brooklyn and Queens, New York as an integrated enterprise, subjected female, Hispanic, and black employees to harassment based on sex, national origin, and race, and retaliated against employees for complaining about the harassment, filing charges with EEOC, and participating in EEOC's investigation. Defendants' male general manager made offensive sexual comments to female employees, asked them for massages, and openly watched pornography. He also made offensive racial remarks, including referring to black employees as "monkeys" and "black bastards." When employees complained to defendants' operations manager and controller about the general manager's conduct, the employees' work was scrutinized, their schedules were modified, and they were threatened with physical harm and termination. Within a month of complaints by five employees in April 2011, all were terminated.

A 4-year consent decree provides $300,000 (half back pay and half compensatory damages) to eight individuals in amounts designated by EEOC and enjoins defendants from subjecting female, black, and/or Hispanic employees to different terms and conditions of employment, including a hostile work environment, based on their sex, race, ethnicity, and/or national origin, and from retaliation. Defendants will adopt a nondiscrimination policy and complaint procedures in accordance with requirements detailed in the decree, and distribute annually an equal opportunity memorandum.

Defendants will ensure the former general manager is not allowed on their premises and will make efforts to prevent his contact with identified affected employees.

c. Sex Discrimination

(1) Hiring

In *EEOC v. Ruby Tuesday, Inc.,* No. 6:15-cv-00109 (D. Ore. May 15, 2015), EEOC alleged that an international restaurant chain denied male employees the opportunity to work on a temporary basis as servers or bartenders at its Park City, Utah, location. In 2012, defendant opened a restaurant in Park City, and when it had difficulty hiring staff, it offered free housing to employees from other defendant locations who agreed to temporary assignments during the busy Park City summer tourist season. In 2013, defendant again advertised internally for employees to temporarily staff the Park City location, but the job posting expressly excluded males from consideration due to defendant's desire to save money on housing by renting a single condominium. All seven employees selected were women. A 3-year consent decree provides a total of $100,000 to two male employees (all but $3,853 in compensatory damages) and enjoins defendant from sex discrimination in temporary and permanent job assignments and related benefits at its facilities in a 9-State region (about 50 restaurants).

In *EEOC v. SVT, L.l.C. d/b/a Ultra Foods*, No. 2:13-CV-245 (N.D. Ind. July 13, 2015), EEOC alleged that a grocery chain with stores in Illinois and Indiana failed to hire female applicants for night stocker positions at its Merrillville, Indiana, store while hiring equally or less qualified male applicants, and failed to retain records required by EEOC's regulations. An applicant told EEOC she spoke with the Merrillville hiring manager a few months after applying and he told her he generally does not hire women for night shift positions. From January 1, 2010, through August 8, 2011, defendant hired 31 night stockers at the Merrillville store, and all but two were male. Applications from individuals who applied during periods when defendant was hiring showed that the hiring manager repeatedly interviewed or hired males over equally or better qualified females, including males with no work experience or who were identified as being high risk under defendant's rating system.

A 3-year consent decree provides $200,000 in monetary relief ($60,000 in backpay and the rest in compensatory damages) to 27 rejected female applicants, enjoins defendant from sex discrimination and retaliation, and requires retention of employment records in accordance with EEOC's regulations. Defendant will offer one of every four night crew stocker positions at store No. 8781 to a female applicant from a list of qualified class members provided by EEOC. To recruit females for night stocker positions,

defendant will establish a relationship with local Work One Centers in Lake and Porter, Indiana, counties and advertise any night stocker positions in those counties. Defendant will report to EEOC on female applicants and explain why any applicant was rejected.

In *EEOC v. Source One Staffing, Inc.*, No. 11-cv-06754 (N.D. Ill. May 6, 2015), EEOC alleged that a staffing agency with three Chicago, Illinois-area locations subjected female employees to a hostile work environment and retaliated against employees for complaining, and failed to refer male and female employees for particular job assignments due to their sex. The suit alleged that defendant used forms that allowed customers to request employees of a specific gender for work assignments and that defendant complied with such requests. A 3-year consent decree provides $800,000 in compensatory damages to affected female applicants and employees (males generally were referred for higher paid positions than females) and enjoins defendant from sex discrimination and retaliation. Defendant will retain a monitor to oversee implementation of the decree, including reviewing, developing, and/or modifying policies and procedures and ensuring work assignments are made independent of gender.

In *EEOC v. Unit Drilling Co. and Unit Corp.*, No. 2:12-cv-00917 (N.D. Okla. April 21, 2015), EEOC alleged that a national operator of oil and natural gas drilling rigs denied rig positions to female applicants because of their sex. Female applicants were told defendant would "never hire a girl"; that it did not have housing for women; and that men would be looking at female employees instead of working. A 30-month consent decree, applicable to defendant's U.S. operations, provides $339,334 (25% as backpay and 75% as compensatory damages) to five rejected female applicants, in amounts set out in the decree, and $66,666 in attorney's fees to one of the five, who had intervened. The decree prohibits sex discrimination and retaliation. Defendant will hire an outside consultant to review and revise its hiring policies to guard against discriminatory hiring decisions. Defendant will modify its website to state that positions on drilling rigs are open to men and women and that female applicants will be afforded the same consideration as males. Semiannually, defendant will report to EEOC on all rig positions filled, the person hired, and the decision-makers, and will provide all applications received during the reporting period.

(2) Assignment

In *EEOC v. Vamco Sheet Metals, Inc.*, No. 12-CV-6088 (S.D.N.Y. Oct. 28, 2014), EEOC alleged that a construction contractor located in Cold Spring, New York, specializing in sheet metal fabrication and installation, discriminated against female employees in their terms and conditions of employment and discharged them because of their sex. Female

sheet metal workers were assigned menial nonjourneyman tasks that male journeymen were not assigned; were laid off for unwarranted reasons, sometimes after only a few days of work; and were not provided restrooms close to their work locations. A 3-year consent decree provides $215,000 to five female workers, including attorney's fees to Legal Momentum, a women's rights group that represented four intervening female employees. The decree enjoins defendant from discriminating against female employees in their terms, conditions, or privileges of employment, or discharging them, because of their sex, and from retaliation.

(3) Harassment

In *EEOC v. EmCare, Inc.,* No. 3:11-cv-02017 (N.D. Tex. Oct. 24, 2014), EEOC alleged that a national provider of physician services to hospitals subjected a female executive assistant at a Dallas, Texas, hospital to a sexually hostile work environment, discharged her for complaining about the sexual harassment, and discharged two other employees for complaining about a manager's sexually inappropriate conduct. At a 5-day trial, EEOC presented evidence that the CEO of the hospital's anesthesiology division and other male managers regularly made offensive sexual remarks and referred to women in derogatory terms, and that shortly after the executive assistant told the CEO, whom she worked for directly, that employees might find his comments inappropriate and that he should watch what he said, she was fired. EEOC presented evidence that two other employees were discharged approximately 6 weeks after they jointly complained to defendant's human resources department that the anesthesiology division CEO made a sexually offensive comment to the 15-year-old daughter of one of them.

The jury returned a verdict for EEOC on the sexual harassment claim for the executive assistant, awarding her $250,000 in punitive damages, and on the retaliatory discharge claims for the two other employees, awarding one of them $167,000 in backpay and benefits and the other $82,000. The court enjoined defendant for 2 years from sex discrimination and from retaliation for opposing sex discrimination. The court also ordered notice posting, training, recording of discrimination complaints, and reporting to EEOC on complaints of sexual harassment or retaliation.

In *EEOC v. VXI Global Solutions, Inc. a/k/a VXI Global Solutions, LLC,* No. 2:14-cv-07444 (C.D. Cal. Sept. 11, 2015), EEOC alleged that a national provider of call center and other services to businesses subjected female and male employees at a call center in Los Angeles, California, to sexually hostile work environments, and retaliated against employees for reporting the harassment and for filing EEOC charges. Male supervisors made sexually explicit comments about female employees, showed them pornographic

images, and touched them inappropriately. Female supervisors made sexually explicit comments to male employees, requested sexual acts, and showed them pornographic images. Employees who complained or filed EEOC charges were subjected to threats and intimidation, disciplinary warnings, and termination.

A 4-year consent decree, applicable companywide, provides $600,000 in compensatory damages to 10 individuals, distributed at EEOC's discretion. The decree enjoins defendant from sex discrimination and retaliation. Defendant will retain an EEO consultant, who will monitor investigations of sexual harassment and retaliation complaints, including the review of responses to calls to defendant's toll-free hotline. The monitor will conduct surveys of random samples of employees at defendant's locations in Texas, Ohio, and California, evaluate the results, and ensure that any sexual harassment and retaliation issues identified are promptly resolved.

(4) Discharge

In *EEOC v. Lakeland Eye Clinic, P.A.,* No. 8:14-cv-02421 (M.D. Fla. April 9, 2015), EEOC alleged that a Lakeland, Florida-based organization of healthcare professionals discharged a female employee because she is transgender. The employee was hired in early 2010 as director of hearing services and presented as male at the time. In late February 2011, she began wearing female attire to work and using makeup, and explained to defendant's office administrator that she was undergoing a gender transition from male to female and would be legally changing her first name from Michael to Brandi. Managers and coworkers made derogatory comments about the employee's appearance and began to ostracize her, and all but one physician stopped referring patients to her. Defendant terminated the employee in June 2011, telling her it was closing its hearing services division, but 2 months later hired a nontransgender male to operate the division. A 2-year consent decree provides $150,000 to the discharged director of hearing services. Defendant will implement a gender discrimination policy addressing transgender status and gender transitions.

d. Religious Accommodation

In *EEOC v. CONSOL Energy, Inc., and Consolidation Coal Co.,* No. 1:13CV215 (N.D.W.V. Jan. 15, 2015), EEOC alleged that defendants refused to reasonably accommodate the Evangelical Christian beliefs of a general inside laborer at their underground coal mine in Mannington, West Virginia, resulting in the employee's constructive discharge. At a 3-day trial, EEOC presented evidence that in the summer of 2012, defendants began

using an electronic biometric hand scanner to record employee time and attendance. The inside laborer, who had worked at the mine for 35 years, believed there was a relationship between hand scanning technology and placement on a person's hands of the "mark of the beast" described in the *Book of Revelation* in the New Testament, and that he therefore was prohibited by his religion from submitting to hand scanning. The laborer informed management of his religious belief about biometric hand scanning and requested an exemption from use of the system, presenting two alternatives to hand scanning: supervisor check-in and a time clock. The only option defendants offered was to allow him to scan his left hand with his palm up, which the laborer could not agree to and retired under protest.

The jury returned a verdict for EEOC, awarding the laborer $150,000 in compensatory damages. The court then awarded him back and frontpay of $436,860.74 and issued a permanent injunction requiring defendants to provide religious accommodations to their hand scanner policy.

In *EEOC v. Mims Distributing Co., Inc.,* No. 5:14-cv-00538 (E.D.N.C. Jan. 24, 2015), EEOC alleged that a Raleigh, North Carolina, beer distributer refused to accommodate a delivery driver applicant's religious beliefs and failed to hire him because of his religion. The applicant believed as a member of the Rastafarian faith that a passage in the Bible prohibits him from cutting his hair. He had not cut his hair since 2009 and wore his hair in dreadlocks when he interviewed for a delivery driver position with defendant in May 2014. Defendant's delivery manager told the applicant he could have the job if he cut his hair. The applicant responded that it was against his religion to cut his hair, and defendant refused to hire him. A 2-year consent decree provides $50,000 to the rejected applicant, and prohibits defendant from violating Title VII. Defendant will adopt an antidiscrimination and religious accommodation policy that includes procedures for requesting religious accommodations. Semiannually, defendant will report to EEOC on requests for religious accommodations and defendant's response.

2. Equal Pay Act

In *EEOC v. Taprite Fassco Manufacturing, Inc.,* No. 14-cv-00565 (W.D. Tex. July 29, 2015), EEOC alleged that a manufacturer of products used to support the soda and beer industries paid a female quality control inspector less than a male performing substantially similar work, and disciplined and demoted her in retaliation for complaining about the pay disparity. In February 2012, defendant hired a male temporary employee to work with the female employee due to an increase in workload following a merger. The female employee was paid $10.91 per hour at the time, while

the temporary agency was paid $17.96 per hour for the male employee's services, $13.50 of which went to the male employee. In May 2012, the female complained to management about the wage disparity, and was told she could quit if she was unhappy with her job. The next day, defendant disciplined her for complaining to management outside the chain of command, and less than 2 weeks later, demoted her to an assembler position. A 1-year consent decree provides $72,500 to the female employee and enjoins defendant from violating the EPA or Title VII at its San Antonio, Texas, facility.

3. Age Discrimination in Employment Act

a. Hiring

In *EEOC v. Strategic Legal Resources, Inc., d/b/a Strategic Legal Solutions,* No. 14-cv-07762 (S.D.N.Y. July 8, 2015), EEOC alleged that a provider of temporary legal staffing and project management services failed to hire, or discharged, an attorney because of her age (70), and failed to hire her in retaliation for opposing age discrimination. On August 13, 2012, the attorney accepted an offer for a document review job in Michigan starting at 8:15 a.m. the following day, and at the request of defendant's executive director provided information that included her date of birth. Later that day, the attorney was contacted by a defendant recruitment coordinator who, after hearing the attorney's travel plans from New York to Michigan, insisted she could not meet the 8:15 a.m. starting time. The attorney asked whether defendant was rescinding the job offer because of her age. The coordinator responded that not only would the attorney not work on the Michigan job, but she would be placed on defendant's "do not use" list and need not apply for future assignments. The coordinator then placed a statement in defendant's database that the attorney blamed defendant for ageism and that the coordinator "would not use her at all."

A 3-year consent decree provides $85,000 ($20,000 in backpay and $65,000 in compensatory damages) to the attorney, and enjoins defendant from failing to hire individuals because of their age and from retaliation. Defendant will create a "Strategic Senior Counsel Program" to provide at least 20 hours of free training (primarily on document review technology) for up to 50 attorneys age 60 and over, offered quarterly for 3 years at defendant's facilities. After each quarterly session, defendant will report to EEOC on individuals who successfully completed the program and their dates of birth. Quarterly, defendant will provide EEOC with a spreadsheet showing current job seekers, document review placements, dates of birth (voluntarily provided) and (if applicable) placement, and the persons involved in the placement decisions.

In *EEOC v. Hi-Line Electric Company,* No. 3:09-cv-01848-M (N.D. Texas Oct. 6, 2014), EEOC alleged that a national supplier of electrical and maintenance products failed to recruit and hire individuals over age 50 as territory managers. Defendant employs about 120 territory managers, who deliver defendant's products. Defendant's director of recruiting developed a tool known as the "Hi-Line Box" to aid recruiters in selecting territory manager candidates. The Box detailed characteristics the director believed were shared by successful territory managers. One characteristic was "40-50 years old," resulting in defendant's failure to recruit or hire individuals over age 50 as territory managers. A 3-year consent decree provides $210,000 to eight individuals, half backpay and half liquidated damages. The decree prohibits age discrimination, including the use of an age range as a factor in hiring employees.

b. Discharge

In *EEOC v. Wal-Mart Stores of Texas, L.L.C.,* No. 3:14-cv-00908 (N.D. Tex. Feb. 27, 2015), EEOC alleged that an international retailer harassed and terminated an employee because of his age, 54, and failed to reasonably accommodate his disability, Type 2 diabetes. After working for defendant for 5 years as a shift manager, the employee was promoted in 2010 to store manager at defendant's Keller, Texas, location. The area manager over the location (age 35-40) regularly subjected the store manager to age-derogatory comments in front of other employees -- referring to him as "old man" and "old food guy," stating "you can't teach an old dog new tricks." In February 2011, the store manager was diagnosed with diabetes and began a 9-week leave under the Family and Medical Leave Act. When he returned to work in early May, he requested, on the advice of his doctor, a reassignment to assistant store manager or store comanager to reduce his work stress. Defendant denied the request, and discharged him in July 2011 for purported performance deficiencies. A 2-year consent decree provides $150,000 to the former store manager (split evenly between backpay and nonwage damages) and prohibits age discrimination.

In *EEOC v. Blinded Veterans Association,* No. 1:14-cv-02102 (D.D.C. Sept. 23, 2015), EEOC alleged that a national nonprofit organization providing services to blind veterans discharged a 70-year-old administrative assistant working in Washington, DC, and a 76-year-old assistant national field service director working in Mather, California, due to their ages. Both employees were asked about their retirement plans, and a few months later were discharged and replaced with individuals 30 or more years younger. A 3-year consent decree provides backpay of $108,360.22 to the assistant national field service director and $41,763.48 to the administrative assistant, and enjoins age discrimination in terms and conditions of employment, including discharge.

In *EEOC v. Stack Brothers Mechanical Contractors,* No. 3:15-cv-60 (W.D. Wis. Sept. 18, 2015), EEOC alleged that a heating and plumbing contractor serving northern Wisconsin and northern Minnesota terminated a bookkeeper and a service manager because of their ages. In November 2013, defendant's owner told the two employees that defendant had a policy requiring employees to retire at age 62. Both were terminated in 2014 within a day or two of turning 62. A 2-year consent decree provides $10,000 in backpay and $25,000 in compensatory damages to the bookkeeper (whom EEOC also alleged was denied a raise in retaliation for filing a discrimination charge), $95,000 in backpay to the service manager, and $10,000 for the employees' attorney's fees and costs incurred during EEOC's administrative process. The decree enjoins defendant from age discrimination, specifically from requiring employees to resign or retire when they reach a particular age, and prohibits retaliation.

c. Benefits

In *EEOC v. Murphy School District No. 21,* No. 2:14-cv-00721 (D. Ariz. Nov. 17, 2014), EEOC alleged that an operator of four public elementary schools in Phoenix, Arizona, maintained an early retirement incentive plan that discriminated on the basis of age. The plan incentive consisted of a percentage of the retiree's salary for his or her final year of service, but the percentages decreased for individuals retiring at older ages, and depending on years of service, were denied entirely to individuals retiring after reaching a particular age. A 4-year consent decree provides $138,000 in backpay to 23 individuals in amounts ranging from $1,090 to $11,810, and permanently enjoins defendant from age discrimination and retaliation. Defendant will revise its retirement policies to conform to the ADEA, and report to EEOC on the revisions.

4. Americans with Disabilities Act

a. Hiring

In *EEOC v. Bond Bros., Inc., and McPhee Electric, LTD.,* No. 3:14-cv-00587 (D. Conn. May 11, 2015), EEOC alleged that contractors at a construction project in New Haven, Connecticut, failed to hire a journeyman carpenter because of his dyslexia, and failed to reasonably accommodate his disability. The carpenter, who can read only a few words (based on recognition), was referred to Bond Brothers, a subcontractor to McPhee Electric, the project's general contractor, by the local union. When McPhee Electric's health and safety officer gave the carpenter a packet of safety information to review and

sign, the carpenter explained he had dyslexia and could not read, and asked for help in reviewing the information. McPhee Electric's safety officer told Bond Brothers that the carpenter would present a risk to himself and others and should not be hired. A 3-year consent decree provides the rejected carpenter $120,000, split evenly between backpay and compensatory damages, and enjoins defendants from disability discrimination in hiring and recruiting and from retaliation.

In *EEOC v. Aurora Health Care, Inc.,* No. 12-CV-984 (E.D. Wis. July 10, 2015), EEOC alleged that a nonprofit operator of healthcare facilities in eastern Wisconsin and northern Illinois withdrew a conditional job offer to an applicant because of her disability, multiple sclerosis (MS). In September 2009, defendant offered the applicant a position as a registered nurse care coordinator for home hospice in Sheboygan and Plymouth, Wisconsin. During a postoffer medical examination, defendant learned that the applicant had MS, which was asymptomatic at the time and for which she was not taking medication. Defendant withdrew the job offer, ostensibly because the applicant had not disclosed the MS on a medical history form she completed in connection with her physical examination. A 2-year consent decree provides $80,000 to the applicant ($10,000 in backpay and $70,000 in compensatory damages) and enjoins defendant from making unlawful medical inquiries and from withdrawing a conditional job offer from a qualified individual with a disability based on medical information obtained in the postoffer medical examination.

In *EEOC v. Maxim Healthcare Services, Inc., d/b/a Maxim Staffing Solutions,* No. 2:14-cv-00338 (W.D. Pa. Dec. 1, 2014), EEOC alleged that a national staffing service for healthcare professionals denied an applicant a job because it regarded him as disabled due to his HIV positive status or because of his disability. In January 2012, defendant offered the applicant a job as a sitter at a Department of Veterans Affairs medical facility in Pittsburgh, Pennsylvania, contingent on completing a health status form. Sitters monitor individual patients who for safety reasons cannot be left alone. After the applicant submitted the form, which was signed by his doctor and indicated that the applicant was HIV positive but had "no contraindications to working," defendant told him he could not be placed at Veteran's Affairs due to his medical condition. A 3-year consent decree applicable to defendant's location on Steubenville Pike in Pittsburgh provides $75,000 ($6,040 in backpay and the rest in compensatory and/or punitive damages) to the rejected applicant, and permanently enjoins defendant from disability discrimination and retaliation.

In *EEOC v. Parker Drilling Company,* No. 3:13-cv-00181 (D. Alaska April 2, 2015), EEOC alleged that an international provider of materials and services for oil drilling operations withdrew an offer of employment to an applicant with vision in only one

eye because of his disability or because it regarded him as disabled. The applicant, who had 32 years' experience in the oil drilling industry, including 5 years with defendant, was offered a junior management position at a rig under construction in Vancouver, Washington, with the promise of a promotion to a senior manager position when the rig moved to Alaska's North Slope. After he took a preemployment physical examination, defendant told him its medical director determined that because he was blind in one eye, he was not qualified to work on a drilling rig. Following a 7-day trial, the jury returned a verdict for EEOC and the applicant, who intervened, awarding the applicant $15,000 in compensatory damages. Following a hearing on economic damages, the court awarded the applicant $230,619 in backpay, with interest to be determined.

b. Reasonable Accommodation

In *EEOC v. Kaiser Foundation Hospitals, aka Kaiser Permanente,* No. 3:13-CV-02062 (S.D. Cal. Oct. 7, 2014), EEOC alleged that a provider of managed care with operations in nine States denied a part-time food service worker at its San Diego, California, Medical Center a reasonable accommodation for his disability, hydrocephalus, and terminated him because of his disability. The worker's condition limits his cognitive functions due to the abnormal accumulation of cerebrospinal fluid in the brain. Defendant hired the worker in June 2008. His job involved assembling food service items, delivering food to patients, and stocking food supplies. Due to his mental impairment, the worker had difficulty learning and doing his job, and in July and August 2008 meetings with a department administrator about his performance problems, the worker requested additional training and a temporary job coach. Defendant denied the requests and terminated the worker in August 2008 for poor performance. A 2½-year consent decree provides the discharged employee with $75,000 ($13,000 in backpay and $62,000 in compensatory damages), changes his separation to a voluntary resignation, and enjoins defendant at its San Diego Service Area facilities from disability discrimination and harassment, and from retaliation.

In *EEOC v. United Airlines, Inc.,* No. 10-CV-01699 (N.D. Ill. June 8, 2015), EEOC alleged that an airline denied disabled employees in its U.S. operations the reasonable accommodation of reassignment to a vacant position for which they were qualified. Defendant permitted disabled employees who could no longer perform their current jobs to submit unlimited transfer requests, guaranteed them interviews for all positions for which they were minimally qualified, and gave them priority for jobs when their qualifications were substantially the same as the most qualified applicant; otherwise, however, disabled employees were required to compete for available positions. A 30-month consent decree provides $1,040,000 to 35 individuals, with EEOC determining

individual distributions, and enjoins defendant from failing to provide reasonable accommodation to qualified individuals with a disability and from retaliation.

In *EEOC v. CTI, Inc.*, No. 4:13-cv-01279 (D. Ariz. Sept. 22, 2015), EEOC alleged that a truck transporter of bulk commodities with locations in four Southwestern States denied reasonable accommodations to individuals with disabilities and terminated them because of their disabilities or need for reasonable accommodation. Defendant prohibited employees on medical leave from returning to work unless they were capable of "full, unrestricted duty," and limited medical leaves to 12 weeks. A 5-year consent decree applicable to all defendant facilities provides a total of $300,000 in backpay and compensatory damages to six individuals plus offers of reinstatement to employees who were terminated. The decree enjoins defendant from disability discrimination and retaliation. Defendant will retain an EEOC-approved outside consultant to monitor compliance with the decree.

In *EEOC v. Dialysis Clinic, Inc.,* No. 2:14-cv-01623 (E.D. Cal. Sept. 14, 2015), EEOC alleged that a provider of medical services to individuals with advanced kidney disease, with facilities in 27 States, denied a staff nurse at a facility in Sacramento California, reasonable accommodation for her disability, breast cancer, and discharged her due to her disability. The staff nurse took leave on December 16, 2008, for surgery and treatment, and defendant discharged her on April 9, 2009, after she exhausted the leave available under defendant's policy -- 12 weeks under the Family and Medical Leave Act plus an additional 30 days of personal leave. The nurse would have been released to return to work, without restrictions, on June 1, 2009. A 3-year consent decree provides $190,000 to the discharged staff nurse (split evenly between backpay and compensatory damages), and enjoins defendant from disability discrimination and retaliation. Defendant will adopt policies allowing for the extension of medical leave as a reasonable accommodation and for job protection while an employee is on medical leave.

In *EEOC v. Orion Energy Systems, Inc.*, No. 2:14-cv-619 (E.D. Wis. Sept. 9, 2015), EEOC alleged that a Manitowoc, Wisconsin, designer and manufacturer of energy-efficient lighting systems failed to provide a senior business analyst with a reasonable accommodation for his disability, and terminated him because of his disability or in retaliation for requesting a reasonable accommodation. The analyst was recruited in June 2009, and in September 2009 suffered an injury that required him to use a wheelchair. He requested a door-assist system to enable him to enter and leave defendant's facility, but defendant denied the request and terminated him in January 2010. A 3-year consent decree provides the discharged analyst $160,000 ($20,000 in backpay and the rest as compensatory damages), and enjoins defendant from failing to

engage in the interactive process or terminating an employee because of disability, and from retaliation.

In *EEOC v. Children's Hospital and Research Center* , No. 3:13-cv-05715 (N.D. Cal. Feb. 10, 2015), EEOC alleged that an Oakland, California-based nonprofit regional medical center for children failed to provide an office associate with extended leave as a reasonable accommodation for her breast cancer, and discharged her because of her disability. The employee was granted a 2-month medical leave in December 2011, which she twice sought to extend due to the need for multiple surgeries. After her second request, which would have extended her leave beyond defendant's 6-month maximum medical leave period, defendant told her in July 2012 to provide medical information on her ability to return to work. The employee produced a doctor's note indicating she would be able to return to work on September 1, 2012, without restrictions, but defendants' managers concluded that she looked "fragile" and was unlikely to return, and terminated her. A 3-year consent decree provides $300,000 in compensatory damages to the discharged office associate and enjoins defendant from disability discrimination and retaliation. Defendant will change the office associate's termination to a resignation and provide her with a letter describing her work at defendant and stating that she is eligible for rehire.

In *EEOC v. Comprehensive Behavioral Health Center of St. Clair County, Inc.*, No. 3:12-cv-01031 (S.D. Ill. Dec. 30, 2014), EEOC alleged that a nonprofit provider of social and rehabilitative services in three southern Illinois cities denied a psycho social services associate a reasonable accommodation for her multiple sclerosis, and refused to rehire her because of her disability and in retaliation for requesting accommodations and complaining about defendant's failure to provide her with accommodations. Due to her impairment, the employee had trouble completing the daily paperwork required in her position, and, in March 2010, the employee requested as reasonable accommodations a quiet office and voice-activated computer software. Defendant provided no accommodation other than permitting her to work in a private office for 2 weeks in June 2010 to catch up on her paperwork. In September 2010, the employee complained to defendant's human resources director about the denial of accommodation, and 2 days later she was laid off. A 3-year consent decree provides $309,000 to the employee, prohibits disability discrimination, and requires the adoption of procedures for requesting accommodations and responding to accommodation requests.

In *EEOC v. Kmart Corporation; Sears Holding Management Corporation,* No. 13-CV-02576 (D. Md. Jan. 22, 2015), EEOC alleged that a national retailer refused to provide an applicant for a customer service associate position at its Hyattsville, Maryland, store with a reasonable accommodation for his end stage renal disease, and withdrew an

offer of employment or failed to hire him because of his disability. The applicant was hired contingent on the result of a drug screening, for which defendant required a urine sample. The applicant explained that due to his renal disease he could not produce urine, and requested an alternative method of drug screening, such as a blood or hair sample test, for which he offered to pay. Defendant denied the request, and told the applicant it was defendant's policy that all new hires complete the standard urine test. A 2-year consent decree provides the applicant with $102,048 ($2,048 in backpay and the rest as compensatory damages) and enjoins defendant from violating the ADA. Defendant will revise its Alcohol and Drug Free Policy to provide for reasonable accommodations in the alcohol and drug testing process.

c. Discharge

In *EEOC v. Randall Ford, Inc.*, No. 2:13-CV-02206 (W.D. Ark. Nov. 4, 2014), EEOC alleged that a car dealership in Fort Smith, Arkansas, failed to provide a used car manager with a reasonable accommodation for his peripheral neuropathy, and discharged him because of his disability. Following spinal surgery, the used car manager had little sensation from his waist down; he wore an ankle brace to avoid falls, and required a walker for balance and walking. Prior to being released to return to work, he informed defendant about his limitations in walking and standing, and suggested work accommodations, including use of a golf cart to travel over the used car lot, and assistance with test driving cars because he had difficulty getting in and out of cars and driving caused him considerable pain. Ten days later, defendant discharged him, ostensibly for overpaying for used cars at an auction 5 months earlier. An 18-month consent decree provides $128,750 to the discharged used car manager ($31,750 in backpay and $97,000 in compensatory damages), and enjoins defendant from practices that violate the ADA, from failing to engage in the interactive process, and from retaliation.

In *EEOC v. Florida Construction Security Services Corp.*, No. 1:13-cv-20465 (S.D. Fla. Oct. 22, 2014), EEOC alleged that a provider of security services throughout the State of Florida removed a security officer from an assignment and denied him other security positions because of his loss of his right arm, and because he filed a discrimination charge with EEOC. The security officer's first assignment following his hire at defendant's Miami, Florida, location was driving a security vehicle around a community association. He did not wear his prosthetic arm his first day of work, and the next day the president of the community association called defendant's agency manager and told him residents were complaining that defendant was a joke for sending the association a one-armed security guard. The agency manager immediately

removed the security officer from his assignment, and never assigned him to another position. The security officer filed a charge with EEOC approximately 6 weeks after his removal from the assignment. Following a 3-day trial, the jury returned a verdict for EEOC on the disability discrimination claim, awarding the security officer $35,921 in backpay.

In *EEOC v. Old Dominion Freight Line, Inc.,* No. 2:11-CV-02153 (W.D. Ark. Jan. 16, 2015), EEOC alleged that a national hauler of general commodity freight failed to reasonably accommodate a truckdriver's alcoholism, and discharged him because of his disability. In June 2009, the truckdriver told his supervisor at defendant's Fort Smith, Arkansas, location that he drank too much alcohol over the weekend; he thought he was an alcoholic; and he was going to an Alcoholics Anonymous meeting. Defendant suspended the truckdriver and required that he be evaluated by a U.S. Department of Transportation substance abuse professional. The truckdriver underwent the evaluation and was prescribed a course of outpatient treatment. Defendant told him he could not return to a driving position, and could not work in any position with defendant unless he completed the prescribed treatment program. The truckdriver told defendant he would not take the treatment program because of the cost, and defendant discharged him.

At a 4-day trial, EEOC presented evidence that the truckdriver would have paid for the treatment program if he could have returned to a driver position. The jury returned a verdict for EEOC, awarding the truckdriver $119,612.97 in backpay. The court then permanently enjoined defendant from applying a policy that bars drivers who self-report an alcohol problem from working again for defendant as a driver; ordered defendant to reinstate the discharged truckdriver to his former position without completion of the prescribed treatment program; and awarded the driver interest of $1,834.24 on the backpay award.

In *EEOC v. Staffmark Investment LLC and Sony Electronics, Inc.,* No. 12-cv-9628 (N.D. Ill. June 23, 2013, and Dec. 23, 2015), EEOC alleged that Staffmark, a national staffing firm, and Sony, a manufacturer of electronic products, discharged a general laborer working at a third-party logistics facility in Romeoville, Illinois, due to her right leg amputation, and that Staffmark refused to refer the worker to other temporary assignments because of her disability. The worker's job at the logistics facility involved inspecting the screws on Sony televisions and tightening them as necessary. A Sony employee supervised her. The worker wears a prosthetic right leg and is able to stand and walk without difficulty, but walks with a limp. On her second day of work at the logistics facility, a Staffmark employee told her she was being taken off the line because of concerns that someone might bump into her. Despite her repeated requests, Staffmark failed to place her into

another temporary position. A 2-year consent decree with Staffmark provides the worker $85,000 in compensatory damages and $15,000 in backpay, and prohibits Staffmark at its Bolingbrook and Naperville, Illinois, locations from engaging in practices prohibited by the ADA and from retaliation. A separate 2-year decree between EEOC and Sony provides $85,000 in damages to the worker and prohibits Sony, in its quality assurance operation in Romeoville, Illinois, from engaging in practices prohibited by the ADA and from retaliation.

In *EEOC v. Bank of America, N.A,* No. 11-cv-06378 (N.D. Ill. Dec. 18, 2014), EEOC alleged that a national financial institution denied a legally blind data entry clerk a reasonable accommodation and terminated him because of his disability. The worker was placed by a temporary agency at a defendant facility in downtown Chicago, Illinois. After a brief orientation, he was assigned a computer station and began using a training program. On his second day of work, when he was reviewing checks and entering check amounts with his face 1 to 2 inches from the computer monitor, a manager asked his where his eyeglasses were. The worker responded that he was legally blind, and defendant sent him home 30 minutes later. A 2-year consent decree, applicable to defendant's facilities in Illinois that use temporary and contingent workers, provides $110,000 in noneconomic damages to the discharged worker and enjoins practices prohibited by the ADA.

In *EEOC v. Gregory Packaging, Inc.,* No. 3:14-cv-00152 (N.D. Ga. March 12, 2015), EEOC alleged that a national manufacturer and distributor of juice products discharged a machine operator at its Newnan, Georgia, facility because he was HIV positive. About 2 months into his employment, the worker was diagnosed with HIV. Upon learning of the diagnosis from another employee, defendant's vice president of operations told the worker he was being fired due to his HIV positive status. A 2-year consent decree provides $108,000 in compensatory damages to the discharged worker and $17,000 in attorney's fees to Lambda Legal Defense and Education Fund, which represented him in his complaint in intervention. The decree enjoins defendant from disability discrimination, and contains an acknowledgement that defendant "is currently aware that [the worker's] continued employment with Defendant after he became HIV-positive did not pose a threat to the health or safety of others (or himself)."

In *EEOC v. The Pines of Clarkston,* No. 2:13-cv-14076 (E.D. Mich. Aug. 5, 2015), EEOC alleged that defendant terminated the administrator of an assisted living facility in Clarkston, Michigan, because of her epilepsy. The administrator was hired in August 2011, pending the results of a physical examination and drug test. She had been diagnosed with epilepsy at age 6, and her condition was well controlled with medical marijuana and Valium; she had not lost consciousness due to a seizure since 2000. The

doctor performing the administrator's physical examination noted that she uses cannabis for seizures, and cleared her to work with no restrictions. When the administrator arrived for her first day of work, defendant's president asked her why she had not informed him of her medications before her physical, expressed doubts that her seizures were well-controlled, and said he worried that the stressful nature of the job would lead to seizures. Defendant terminated the administrator the following day. A 3-year consent decree provides the discharged administrator with $42,500, divided evenly between backpay and compensatory damages, enjoins defendant from disability discrimination and retaliation, and states that defendant will end its current practice of asking applicants questions designed to elicit information about a disability prior to an offer of employment.

In *EEOC v. LHC Group, Inc., d/b/a Gulf Coast Homecare,* No. 1:11-cv-00355 (S.D. Miss. July 27, 2015), EEOC alleged that a Picayune, Mississippi, provider of healthcare services failed to provide a team leader with a reasonable accommodation for her epilepsy, and discharged her because of her disability. A few months after being promoted to team leader, the employee had an epileptic seizure at work. She returned to work several days later and informed her supervisor she might have some minor memory problems for a few days. Less than 3 weeks later, the supervisor gave the team leader an evaluation listing problems she supposedly had experienced since returning from medical leave. Defendant discharged the team leader 5 weeks later, telling her she was a "liability to the organization" and that "because of your seizures, we think it is best to let you go." A 2-year consent decree provides $100,000 ($25,000 in backpay and $75,000 in compensatory damages) to the discharged team leader and prohibits ADA discrimination, including not making reasonable accommodations.

d. Medical Examinations and Inquiries

In *EEOC v. P.A.M. Transport, Inc.,* No. 4-09-CV-13851 (E.D. Mich. Feb. 26, 2015), EEOC alleged that a trucking carrier serving 38 states and parts of Canada engaged in illegal medical inquiries by maintaining a policy that required truckdrivers to report any illness or injury and any prescription drug use and to obtain clearance from its medical department after any visit to a health care professional. The parties entered into a stipulated court order that established a revised medical clearance policy, and that the court, over defendant's repeated objections, held determined the illegality of the prior policy. The stipulated order provided that if the parties were unable to agree on which former drivers were entitled to monetary relief and the amounts, remaining issues of causation and damages would be referred to a third party decisionmaker, who would

have the authority to determine the nature of subsequent proceedings and, following those proceedings, to issue a final nonappealable judgment.

EEOC and defendant were unable to resolve the monetary relief issues, and following discovery on causation and damages, they submitted briefs to the third party decisionmaker on 19 individuals identified by EEOC. The decisionmaker found that 12 of the 19 were entitled to monetary relief and awarded them a total of $220,469 in backpay, plus interest (later calculated at $5,529), and $49,114 in compensatory damages. The decisionmaker found that 3 of the 12 also were entitled to punitive damages, totaling $202,287, because they were harmed after EEOC had informed defendant, following the agency's administrative investigation, that its medical clearance policy violated the ADA.

In *EEOC v. Celadon Trucking Services, Inc.*, No. 1:12-cv-00275 (S.D. Ind. July 31, 2015), EEOC alleged that an interstate transporter of nonhousehold goods headquartered in Indianapolis, Indiana, failed to hire applicants for truckdriver positions due to their disabilities, and subjected truckdriver applicants to preoffer disability-related inquiries and medical examinations. Defendant required truckdriver applicants, during preoffer orientation, to complete a medical history form identifying their medications and physical and mental impairments, and to undergo an examination by a contract physician. Despite meeting U.S. Department of Transportation (DOT) standards and possessing current DOT medical cards, applicants were disqualified from hire due to the results of defendant's preoffer medical inquiries and physical examinations. A 5-year consent decree provides $200,000 to 25 individuals (including $30,029.90 and $12,371.90 to two individuals denied hire due to their disabilities). The decree permanently enjoins defendant from disability discrimination and retaliation, and from making preoffer disability-related inquiries and conducting physical examinations of applicants for driver positions. Defendant will offer truckdriver positions to 22 identified individuals.

5. Americans with Disabilities Act and Genetic Information Nondiscrimination Act

In *EEOC v. All Star Seed, Inc.; La Valle Sabbia, Inc.; Abatti,* No. 2:13-CV-07196 C.D. Cal. Nov. 7, 2014), EEOC alleged that related entities providing farmers forage, seed, and fertilizer from warehouses in Long Beach and El Centro, California, denied an applicant a job because it regarded him as disabled, and subjected applicants to preoffer medical examinations and inquiries and to inquiries about their genetic information. An applicant for a dispatcher position was required, prior to receiving a job offer, to pass a

physical examination and drug test, and to complete a health questionnaire that included a question on family medical history. The applicant disclosed that he had been hospitalized during the past year for atrial fibrillation (a one-time event), and was then asked to submit related medical documents, which contained information about the medical conditions of relatives. Defendants told the applicant it could not hire him because he had had a recent heart attack. A 4-year consent decree provides $140,000 in compensatory damages to the rejected applicant and three other identified individuals, and $47,500 into a class fund, with allocations from the fund made at EEOC's discretion. The decree enjoins defendants from engaging in employment practices in violation of the ADA and GINA.

6. Breach of a Mediation Agreement and Retaliation

In *EEOC v. KONE, Inc.*, No. 2:14-cv-02674 (W.D. Tenn. June 17, 2015), EEOC alleged that an international manufacturer and servicer of elevators and escalators failed to hire an elevator apprentice in retaliation for filing a discrimination charge with EEOC, and breached a May 2009 mediation agreement resolving the charge. Defendant agreed in EEOC's mediation process to pay the apprentice $15,000 and change the code in her personnel file from "not eligible for re-hire to eligible for re-hire effective immediately." The apprentice sought work at defendant's Cordova, Tennessee, facility several times after May 2009, but was not hired. When she contacted defendant in October 2012 about employment, she was told she was on the company's no-hire list. A 3-year consent decree provides $85,000 in compensatory damages to the apprentice, and enjoins defendant from retaliation and from violating the mediation agreement. Defendant will ensure the apprentice is listed as eligible for rehire in all personnel files and documents, and will instate her to the first available position in the Memphis metropolitan area.

A. Appellate and Amicus Cases

1. Conditions Precedent to EEOC Suits

EEOC v. Sterling Jewelers, Inc., 804 F.3d 96 (2d Cir. Sept. 9, 2015)

EEOC alleged that a national operator of jewelry store chains engaged in a pattern or practice of sex discrimination in the pay and promotion of female employees. The district court granted summary judgment to defendant, ruling that EEOC had failed to conduct a "nationwide investigation" before filing suit. On appeal, EEOC maintained that Title VII does not authorize the review of the sufficiency the agency's investigations, and that in any event the district court made several errors in attempting

to do that. The Second Circuit agreed, holding that the scope of review of EEOC's investigations is narrow, limited to whether the agency conducted an investigation at all. Allowing courts to review the sufficiency of EEOC investigations, the court reasoned, would turn every Title VII suit into a two-step action and waste scarce agency resources. Here, the court ruled, defendant had ample notice of a nationwide suit because EEOC investigated claims arising in California, Texas, and New York.

Mach Mining, LLC v. EEOC, 135 S. Ct. 1645 (April 29, 2015)

EEOC alleged that an operator of coal mines denied mining positions to women because of their sex. Defendant pled as a defense in its answer that EEOC had not met its conciliation requirement under Title VII prior to filing suit. EEOC moved for summary judgment on that defense, arguing that the agency's conciliation efforts are not subject to judicial review. The district court denied the motion, but certified the question to the Seventh Circuit, which agreed with EEOC.

The Supreme Court held that EEOC's conciliation efforts are subject to judicial review, but that the review is "barebones." A court can consider only (1) whether EEOC informed the employer about the specific allegation, describing what the employer has done and which employees (or class of employees) have suffered as a result, and (2) whether the agency has tried to engage the employer in some form of communication to give the employer an opportunity to remedy the alleged discrimination. The court may not review the content of conciliation discussions. The Supreme Court recognized "the abundant discretion the law gives the EEOC to decide the kind and extent of discussions appropriate in a given case." The Court also held that if a court finds that EEOC did not satisfy this condition precedent to suit, the court should stay the case and order further conciliation rather than dismiss the action.

2. Timeliness of Private Actions

Schulman v. Wynn Las Vegas, LLC, 593 F.App'x 673 (9th Cir. Feb. 13, 2015) (unpublished)

A security guard with type 1 diabetes brought ADA claims against his employer, a casino. Defendant argued that plaintiff failed to sue within 90 days of receiving his notice of right to sue from EEOC. Applying the 3-day delivery presumption, the district court found the suit untimely and granted defendant summary judgment. On appeal, EEOC argued as amicus curiae that the district court erred in applying the 3-day presumption because the presumption is rebuttable and plaintiff offered evidence showing that he did not receive the notice within 3 days and that he filed suit within 90

days of receiving it. The Ninth Circuit agreed and reversed the summary judgment order.

3. Employer Status

Browning-Ferris Industries of California, Inc., 2015 WL 5047768 (NLRB Aug. 27, 2015)

In an amicus curiae brief, EEOC urged the National Labor Relations Board to adopt the joint employer test used by EEOC and reject requirements the Board had imposed that made joint employer findings less likely. The Board agreed, returning to its former test and holding that two or more entities are joint employers of a single workforce if they are both common law employers, and if they share or codetermine matters that govern essential terms and conditions of employment. If a common law employment relationship exists, the Board's inquiry turns to whether the putative joint employer possesses sufficient control over employees' essential terms and conditions of employment to permit meaningful collective bargaining.

The Board rejected two requirements it had previously imposed. First, the Board will no longer require that a joint employer not only *possess* the authority to control terms and conditions of employment but actually *exercise* that authority. Second, the Board will no longer require that an employer's control be exercised directly and immediately; control exercised indirectly —such as through an intermediary—may now establish joint employer status.

EEOC v. Northern Star Hospitality, Inc., d/b/a Sparx Restaurant, 777 F.3d 898 (7th Cir. Jan. 29, 2015)

EEOC alleged that a restaurant discharged a black manager for complaining about racial harassment. The sole owner of the restaurant then dissolved the defendant corporation and created a new corporation to operate a restaurant at the same location. EEOC amended its complaint to name the new corporation as a successor and prevailed on its retaliation claim in a jury trial. The Seventh Circuit affirmed the district court's finding that the new corporation was liable as a successor under Title VII, and also affirmed the court's award of almost $6,500 to offset the tax burden the discharged employee will bear when he receives the lump-sum backpay award.

4. Proof

EEOC v. Freeman, 778 F.3d 463 (4th Cir. Feb. 20, 2015)

EEOC alleged that a national provider of marketing services through exhibitions and conventions engaged in a pattern or practice of using criminal history as a selection criterion that had a disparate impact on black and male applicants, and a pattern or practice of using credit history information as a selection criterion that had a disparate impact on black applicants. The district court granted summary judgment to defendant, finding that due to the unreliability of EEOC's experts' reports, EEOC could not establish a prima facie case of disparate impact. The Fourth Circuit affirmed, holding that the district court did not abuse its discretion in excluding the experts' testimony.

5. Sexual Orientation and Gender Identity

Muhammad v. Caterpillar Inc., 767 F.3d 694 (7th Cir. Sept. 9, 2014), *as amended on denial of reh'g* (Oct. 16, 2014)

Plaintiff alleged that his coworkers created a hostile work environment through antigay comments and conduct and that he was suspended for complaining about the harassment. The district court granted the defendant's motion for summary judgment and the Seventh Circuit affirmed, in part based on circuit precedent that Title VII does not prohibit sexual-orientation harassment, or retaliation against individuals who oppose it.

Plaintiff petitioned for rehearing, and EEOC filed an amicus curiae brief arguing that the court's categorical statements regarding Title VII and sexual-orientation discrimination and related retaliation were no longer legally sound in light of *Price Waterhouse v. Hopkins*, 490 U.S. 228 (1989), recent decisions from other courts, and EEOC's own federal-sector rulings and enforcement activity. The court denied plaintiff's petition for rehearing, but issued an amended opinion removing language regarding the scope of Title VII coverage. The opinion no longer repeats prior Seventh Circuit statements that Title VII does not prohibit sexual-orientation discrimination or retaliation for related opposition conduct. The revised decision affirmed the district court's summary judgment for defendant on other grounds, on which EEOC took no position.

Lewis v. High Point Regional Health System, 79 F. Supp.3d 588 (E.D.N.C. Jan. 15, 2015)

Plaintiff alleged that defendant rejected her application for a certified nursing assistant position because she is transgender. Defendant moved to dismiss, maintaining that Title VII does not prohibit employment discrimination based on sexual orientation or transgender status. EEOC filed an amicus curiae brief challenging defendant's position that discrimination on the basis of transgender status is not cognizable as sex discrimination under Title VII. The district court denied defendant's motion, ruling that defendant's arguments addressing sexual orientation were irrelevant to plaintiff's complaint, which alleged discrimination based on transgender status. The court (possibly interpreting defendant's motion as challenging only a sexual orientation claim) did not address whether discrimination against a person because he or she is transgender constitutes sex discrimination under Title VII.

Dawson v. H&H Electric, Inc., No. 4:14cv00583, 2015 WL 5437101 (E.D. Ark. Sept. 15, 2015)

An electrical apprentice who had presented as a man when hired informed his employer's vice president that she was a transgender woman and had changed her name. The vice president forbade the apprentice from using her new legal name, presenting as female, discussing her transition with coworkers, or using the women's restrooms. Three months later, the vice president fired the apprentice. The apprentice filed suit, alleging that defendant fired her because of her transition and because she failed to conform to defendant's male stereotypes. Defendant moved for summary judgment, contending that Title VII does not bar discrimination based on "transsexual" status. EEOC argued in an amicus curiae brief that claims of discrimination based on transgender status are cognizable as sexual stereotyping claims under Title VII, and that discrimination on the basis of transgender status inherently entails sex-based considerations. The district court denied summary judgment, ruling that plaintiff's complaint stated a viable sexual stereotyping claim under Supreme Court and Eighth Circuit precedent.

6. Pregnancy Discrimination

Young v. United Parcel Service, Inc., 135 S. Ct. 1338 (March 25, 2015)

A part-time driver for a national package-delivery service challenged the company's refusal to accommodate her pregnancy-related lifting restrictions while accommodating lifting restrictions imposed for other reasons. The district court granted summary

judgment to defendant, and the Fourth Circuit affirmed, ruling that the company's accommodation policy was pregnancy-blind. In the Supreme Court, EEOC, as amicus curiae with the United States, supported the plaintiff's argument that the Pregnancy Discrimination Act (PDA) requires that restrictions caused by pregnancy be treated the same as all others.

The Court rejected this argument, holding that under the PDA plaintiffs must establish discriminatory intent by showing that the challenged policy imposes a significant burden on pregnant employees, and that the employer's articulated reasons are not strong enough to justify that burden. The Court reversed the Fourth Circuit's decision, however, because that court had not considered plaintiff's evidence that defendant accommodated many other employees' lifting restrictions, and had not evaluated the strength of defendant's reasons for not treating pregnant employees the same way.

7. Religious Accommodation

EEOC v. Abercrombie & Fitch Stores, Inc., 135 S. Ct. 2028 (June 1, 2015)

A young Muslim woman wearing a hijab (headscarf) applied for a sales position at one of defendant's clothing stores. The interviewer wanted to hire her, and when asking the district manager whether the headscarf would be acceptable under defendant's appearance policy, she told him she thought the applicant was Muslim and wore the headscarf for religious reasons. The district manager told the interviewer the applicant could not be hired because the headscarf violated defendant's appearance policy.

EEOC filed suit alleging that defendant refused to hire the applicant because of her religion and because it did not want to accommodate her religious practices. The district court granted EEOC summary judgment on liability, and following a trial on damages, the company appealed. The Tenth Circuit reversed and entered judgment for defendant on the ground that EEOC had failed to show defendant had actual knowledge of the applicant's need for a religious accommodation. The Supreme Court reversed the Tenth Circuit's judgment and remanded the case for further proceedings. The Court held that Title VII does not require proof that the employer had actual knowledge of the individual's religious beliefs or practices to establish a disparate treatment claim, and that an employer's "unsubstantiated suspicion" will suffice if that suspicion motivated the employer's decision.

8. Disability Discrimination

EEOC v. LHC Group, Inc., 773 F.3d 688 (5th Cir. Dec. 11, 2014)

EEOC alleged that a provider of home health care denied a reasonable accommodation to a nurse with epilepsy and then fired her because of her disability. The district court granted summary judgment to defendant, but the Fifth Circuit reversed with respect to EEOC's termination claim. The court corrected earlier Fifth Circuit decisions that had imposed unnecessary requirements for a prima facie case of disability discrimination; held that statements in an EEOC charge are admissible evidence at summary judgment if they comply with the Federal Rules of Evidence and with Federal Rule of Civil Procedure 56(c); and reaffirmed that when courts are determining the essential functions of a position, they should not defer to the employer's position description if the evidence shows that the employer did not actually require employees in that position to perform the challenged function.

EEOC v. Beverage Distributors Co., LLC, 780 F.3d 1018 (10th Cir. March 16, 2015)

EEOC alleged that defendant's rejection of an applicant for a night warehouse associate position because of his vision impairment violated the ADA. At trial, defendant maintained that its decision was lawful because the applicant posed a direct threat to the safety of himself or others. The jury returned a verdict for EEOC, and the district court added a tax-penalty offset to the backpay award. On appeal, defendant contended that the district court erred by failing to instruct the jury that defendant had to show only that its direct threat assessment was objectively reasonable, not that it was correct. The Tenth Circuit agreed and vacated EEOC's verdict. The court of appeals, however, rejected defendant's argument that tax-penalty offsets are available only in special cases.

9. Disability Accommodation

EEOC v. Kohl's Department Stores, Inc., 774 F.3d 127 (1st Cir. Dec. 19, 2014)

EEOC alleged that the defendant department store denied the request of a full-time sales associate with type 1 diabetes for a more regular work schedule as a reasonable accommodation for her disability, resulting in her constructive discharge. The sales associate was told defendant would make no exception to its policy that full-time sales associates must be available to work at any time. The district court granted summary

judgment to defendant and the First Circuit affirmed. The court ruled that defendant was willing to discuss "other schedules," but the sales associate's premature refusal to participate led to a breakdown in the interactive process, negating EEOC's constructive discharge claim.

EEOC v. Ford Motor Co., 782 F.3d 753 (6th Cir. April 10, 2015) (en banc)

EEOC alleged that a car manufacturer violated the ADA when it rejected the request of a resale steel buyer with irritable bowel syndrome to telework and then fired her in retaliation for seeking the accommodation. After the district court granted summary judgment to defendant, a Sixth Circuit panel reversed, but on rehearing en banc, the full court affirmed the district court's order. EEOC argued that a reasonable jury could have found that daily attendance was not an essential function of the buyer's position, and that the buyer was qualified because she could perform her job if allowed to telework some of time. In rejecting these arguments, the en banc court held that regular physical presence was an essential function of the buyer's job because the job required teamwork and interaction. The court also said that the buyer's performance was subpar and that she caused the breakdown in the interactive process. It also ruled that EEOC offered insufficient evidence of retaliation.

Gleed v. AT&T Mobility Services, Inc., 633 F.App'x 535 (6th Cir. June 4, 2014) (unpublished)

A retail sales consultant requested accommodations for his vascular/circulatory impairments that are exacerbated by standing for long periods: sitting as needed during the workday, and a schedule accommodation for 4 to 6 weeks to allow medical treatment at times during the workday. After defendant denied both requests, the sales consultant resigned and filed suit under the ADA. The district court granted summary judgment to defendant, and on appeal, EEOC as amicus curiae supported plaintiff on both of his failure to accommodate claims. The Sixth Circuit reversed as to plaintiff's request to sit as needed, because defendant allowed other employees to sit at work and standing caused plaintiff great pain and increased his risk of infection. The court, however, affirmed the summary judgment order as to plaintiff's scheduling request, reasoning that plaintiff caused the breakdown in the interactive process.

10. Retaliation

EEOC v. Allstate Ins. Co., 778 F.3d 444 (3d Cir. Feb. 13, 2015)

In 2000, the defendant insurance company terminated all of its employee insurance agents. Agents who wanted to continue selling the company's insurance products could do so only as independent contractors, and to gain that opportunity had to release all claims against defendant. EEOC filed suit on a claim that the release requirement was retaliatory under Title VII, the ADA, and the ADEA, contending that it is unlawful for an employer to require its employees to release their employment discrimination claims in order to keep working for the employer. The district court dismissed EEOC's claims. On appeal, the Third Circuit recharacterized EEOC's argument, saying that the agency was contending that conversion to independent contractor status was "inadequate," rather than "unlawful," consideration for the release. The court rejected the inadequate consideration argument on the ground that the conversion was a valuable option to which the employee agents were not otherwise entitled. The court also rejected EEOC's contention that the refusal of some agents to sign the release constituted protected activity on their part.

Greathouse v. JHS Security, Inc., 784 F.3d 105 (2d Cir. April 20, 2015)

A security guard sued his employer for violations of the Fair Labor Standards Act (FLSA), including retaliation. A 1993 Second Circuit decision had held that informal oral complaints to a supervisor did not amount to "fil[ing a] complaint" under the FLSA's retaliation provision, and the circuit had subsequently interpreted that decision as requiring that a complaint had to be in writing and filed with a government agency to be considered protected activity under the statute. Bound by that decision, the district court denied relief on plaintiff's retaliation claim because he had complained only orally to his manager.

Because the retaliation provision of the FLSA applies to the EPA, EEOC joined the Department of Labor's amicus curiae brief in the court of appeals, arguing that after the Supreme Court's decision in *Kasten v. Saint-Gobain Performance Plastics Corp.*, 563 U.S. 1 (2011) (holding that oral complaints are covered by the FSLA's retaliation provision, but not deciding whether they must be made to a government agency), an employee's oral complaint to a manager should suffice. The Second Circuit agreed, finding that *Kasten* had overruled the circuit's written complaint requirement, and then overruling the requirement that complaints be made to a government agency.

Boyer-Liberto v. Fontainebleau Corp., 786 F.3d 264 (4th Cir. May 7, 2015) (en banc)

A black waitress alleged that her employer, a resort hotel, subjected her to a racially hostile work environment and discharged her for reporting the harassment. The district court granted summary judgment to defendant on both claims, and a Fourth Circuit panel affirmed, finding that on the retaliation claim it was bound by the circuit's earlier decision in *Jordan v. Alternative Energy Resources*, 458 F.3d 332 (4th Cir. 2006).

On rehearing en banc, EEOC argued as amicus curiae that an employee complaining of seriously offensive conduct is protected from retaliation even if she lacked an objectively reasonable belief that an actionable hostile environment already existed or was imminent. The en banc court first said that an isolated incident of harassment, if extremely serious, can create a hostile work environment. Then turning to plaintiff's retaliation claim, the court accepted EEOC's argument and overruled *Jordan*, viewing that decision as conflicting with "the hope and expectation that employees will report harassment early, before it rises to the level of a hostile environment." The court found that the conduct plaintiff was subjected to was "physically threatening or humiliating," and she therefore was protected from retaliation for opposing it.

DeMasters v. Carilion Clinic, 796 F.3d 409 (4th Cir. Aug. 10, 2015)

An employee assistance program (EAP) consultant was fired by a large healthcare concern after he advised an employee to complain to the human resources department about being sexual harassed, and later told the human resources department that it was not responding properly to the employee's complaint. The district court dismissed the plaintiff's retaliatory discharge suit for failure to state a claim, finding that plaintiff had not engaged in protected opposition because his activity was "in the context of EAP counseling."

On appeal, EEOC argued as amicus curiae that plaintiff's actions assisting the harassment victim and objecting to the human resources department's conduct were protected activity, and that plaintiff's claim should not be barred by a judicially created "manager rule" exception that denied protection on the ground that the employee was just doing his job as an EAP counselor. The Fourth Circuit agreed, holding that the district court had failed to view plaintiff's opposition activity holistically, and that the "manager rule" should not be applied in Title VII cases.

Hurtt v. International Services, Inc., 627 F.App'x 414 (6th Cir. Sept. 14, 2015) (unpublished)

A senior business analyst for a tax consulting service who suffered from acute anxiety and depression requested a less demanding schedule to allow him to sleep more regularly. Defendant denied the request, and when the business analyst applied for leave under the Family and Medical Leave Act, drastically changed his compensation the next day. The business analyst filed suit under the ADA, alleging disability discrimination and retaliation. The district court granted summary judgment to defendant, ruling that the plaintiff failed to show an adverse action or any protected activity.

On appeal, EEOC argued as amicus curiae that plaintiff stated valid claims of failure to accommodate, constructive discharge, and retaliation. The Sixth Circuit reversed on both the plaintiff's constructive discharge claim (on the basis of the drastic reduction in his compensation and the repeated denials of his requests for reasonable accommodation) and his retaliation claim (because his repeated requests for reasonable accommodation constituted protected activity under the ADA).

11. EEOC Liability for Attorney's Fees

EEOC v. CRST Van Expedited, Inc., 774 F.3d 1169 (8th Cir. Dec. 22, 2014)

EEOC alleged that a national long-haul trucking carrier violated Title VII by failing to prevent or remedy sexual harassment of women drivers and driver-trainees. After the Eighth Circuit affirmed the district court's earlier orders barring EEOC from seeking relief for a class of female employees, the district court awarded defendant more than $4.5 million in attorney's fees. EEOC appealed and the court of appeals vacated the fee award, ruling that the district court could not grant fees with respect to either a pattern-or-practice claim (because EEOC had not brought such a claim), or to EEOC's claim for relief for 67 women (because the district court's dismissal of that claim was based on the agency's failure to meet its presuit obligations regarding the claim, and involved no finding on the claim's merits). The court remanded for the district court to make individualized determinations on whether the Commission's claim for relief for each woman was frivolous or unreasonable.

II. Litigation Statistics

A. Overview of Suits Filed

In FY 2015, the field legal units filed 142 merits lawsuits. (Merits suits include direct suits and interventions alleging violations of the substantive provisions of the Commission's statutes, and suits to enforce settlements reached during EEOC's administrative process.) Of the FY 2015 filings, 139 were direct suits, 2 were actions to enforce administrative settlements, and 1 was an intervention; 45 were class or systemic suits. The field legal units also filed 32 actions to enforce investigative subpoenas.

Merits Filings in FY 2015

	Count
Direct	139
Administrative Settlements	2
Interventions	1
Total	142

97 Individual Suits
29 Class Suits
16 Systemic Suits

1. Litigation Workload

The FY 2015 litigation workload (merits cases active at the start of the fiscal year plus merits suits filed during the year) totaled 359.

FY 2015 Litigation Workload

Active	Filed	Workload
217	142	359

2. Filing Authority

In EEOC's National Enforcement Plan adopted in February 1996, and reaffirmed in the Commission's December 2012 Strategic Enforcement Plan, the Commission delegated litigation filing authority to the General Counsel in all but a few areas. The General Counsel has redelegated much of this authority to EEOC's 15 regional attorneys. Redelegated cases are reviewed by Office of General Counsel headquarters staff prior to suit filing. The chart below shows the filing authority for FY 2015 merits suits.

FY 2015 Merits Suit Authority

	Count	Percent
Regional Attorney	121	85.2%
General Counsel	6	4.2%
Commission	15	10.6%

3. Statutes Invoked

Of the 142 merits suits filed, 58.5% contained Title VII claims, 36.6% contained ADA claims, 9.2% contained ADEA claims, 4.9% contained EPA claims, .7 % contained GINA claims, and 9.9% were filed under more than one statute. (Statute numbers in the chart below exceed the number of suits filed and percentages total over 100 because suits filed under multiple statutes ("concurrent" cases) are included in the totals of suits filed under each of the statutes.)

Merits Filings in FY 2015 by Statute

	Count	Percent of Suits
Title VII	83	58.5%
ADA	52	36.6%
ADEA	13	9.2%
EPA	7	4.9%
GINA	1	0.7%
Concurrent	14	9.9%

4. Bases Alleged

As shown in the next chart, disability (35.2%), sex (35.2%), and retaliation (28.2%) were the most frequently alleged bases in EEOC suits. Bases numbers in the chart exceed the total suit filings (142) because suits often contain multiple bases.

FY 2015 Bases Alleged in Suits Filed

	Count	Percent of Suits
Disability	50	35.2%
Sex	50	35.2%
Retaliation	40	28.2%
Race	16	11.3%
Age	13	9.2%
National Origin	11	7.7%
Equal Pay	7	4.9%
Religion	5	3.5%
Genetic. Info.	1	0.7%

5. Issues Alleged

Discharge was the most frequently alleged issue (62%) in EEOC suits filed, followed by harassment (23.2%), hiring (23.2%), and disability accommodation (20.4%).

FY 2015 Issues Alleged in Suits Filed

	Count	Percent of Suits
Discharge	88	62.0%
Harassment	33	23.2%
Hiring	33	23.2%
Disability Accommodation	29	20.4%
Terms/Conditions	14	9.9%
Wages	9	6.3%
Promotion	8	5.6%
Prohibited Med. Inquiry/Exam	5	3.5%
Religious Accommodation	4	2.8%
Recordkeeping Violation	4	2.8%
Discipline	3	2.1%

B. Suits Filed by Bases and Issues

1. Sex Discrimination

As shown below, 44% of cases with sex as a basis contained a discharge allegation and 40% contained a harassment allegation.

Sex Discrimination Issues

	Count	Percent
Discharge	22	44.0%
Harassment	20	40.0%
Hiring	5	10.0%
Wages	4	8.0%
Promotion	4	8.0%
Terms/Conditions	3	6.0%
Layoff	1	2.0%
Assignment	1	2.0%

2. Race Discrimination

Discharge was the most frequently alleged issue (50%) in suits containing race discrimination claims, followed by harassment (43.8%).

Race Discrimination Issues

	Count	Percent
Discharge	8	50.0%
Harassment	7	43.8%
Hiring	3	18.8%
Demotion	2	12.5%
Promotion	2	12.5%
Discipline	1	6.3%
Layoff	1	6.3%
Training	1	6.3%
Terms/Conditions	1	6.3%

3. National Origin Discrimination

As shown in the next chart, harassment was the most frequently alleged issue (45.5%) in suits where national origin was a basis.

National Origin Discrimination Issues

	Count	Percent
Harassment	5	45.5%
Discharge	3	27.3%
Terms and conditions	2	18.2%
Hiring	2	18.2%
Sexual Harassment	1	9.1%

4. Religious Discrimination

Failure to accommodate was an issue in 80% of religious discrimination cases and discharge in 60%.

Religious Discrimination Issues

	Count	Percent
Reasonable Accommodation	4	80.0%
Discharge	3	60.0%
Hiring	1	20.0%
Harassment	1	20.0%
Promotion	1	20.0%

5. Age Discrimination

Discharge was an issue in half of the cases with age discrimination claims, and hiring in 40% of such cases.

Age Discrimination Issues

	Count	Percent
Discharge	5	50.0%
Hiring	4	40.0%
Harassment	2	20.0%
Promotion	1	10.0%
Early Retire. Incentive	1	10.0%

6. Disability Discrimination

Discharge was the most frequently alleged issue in disability suits (68%), followed by failure to accommodate (58%) and hiring (34%).

Disability Discrimination Issues

	Count	Percent
Discharge	34	68.0%
Reasonable Accommodation	29	58.0%
Hiring	17	34.0%
Prohibited Med. Inquiry/Exam	4	8.0%
Terms/Conditions	2	4.0%
Harassment	2	4.0%
Wages	1	2.0%

7. Genetic Information

Prohibited medical inquiry and hiring were issues in the one case raising GINA claims.

Genetic Information Issues

	Count	Percent
Prohib. Med. Inq.	1	100%
Hiring	1	100%

8. Retaliation

Discharge was an issue in 90% of the suits containing retaliation claims

Retaliation Issues

	Count	Percent
Discharge	36	90.0%
Terms/Conditions	6	15.0%
Discipline	3	7.5%
Hiring	3	7.5%
Harassment	3	7.5%
References Unfav.	2	5.0%
Layoff	1	2.5%
Wages	1	2.5%
Sexual Harassment	1	2.5%

C. Bases Alleged in Suits Filed from FY 2011 through FY 2015

The table below shows, by year, the bases on which EEOC suits were filed over the last 5 years. (G in the fourth sex discrimination column stands for gender identity.)

Bases Alleged in Suits Filed FY 2011 - FY 2015

Percent Distribution

FY	Sex (F)	Sex (P)	Sex (M)	Sex (G)	Race	Nat. Or.	Relig.	Dis.	Gen. Info. Dis.	Age	Retal.
2011	24.5%	7.3%	2.3%	0.0%	12.3%	8.4%	5.7%	29.9%	0.0%	7.7%	35.6%
2012	20.5%	9.0%	1.6%	0.0%	9.0%	4.1%	7.4%	36.1%	0.0%	9.0%	25.4%
2013	16.8%	7.6%	2.3%	0.0%	10.7%	4.6%	9.2%	34.4%	2.3%	5.3%	34.4%
2014	21.8%	10.5%	1.5%	1.5%	12.8%	7.5%	6.0%	35.3%	1.5%	7.5%	32.3%
2015	18.3%	13.4%	2.1%	1.4%	11.3%	7.7%	3.5%	35.2%	0.7%	9.2%	28.2%

D. Suits Resolved

In FY 2015, the Office of General Counsel resolved 157 merits lawsuits, recovering $65,378,820 in monetary relief.

1. Types of Resolutions

As the chart below indicates, 79.6% of EEOC's suit resolutions were settlements, 16.5% were determinations on the merits by courts or juries, and 3.8% were voluntarily dismissals. (The figures on favorable and unfavorable court orders do not take appeals into account.)

Types of Resolutions FY 2015

	Count	Percent
Consent Decree	121	77.1%
Settlement Agreement	4	2.5%
Favorable Court Order	12	7.6%
Unfavorable Court Order	14	8.9%
Voluntary Dismissal	6	3.8%
Total	157	100%

2. Statutes Invoked

Of the 157 merits suits resolved during the fiscal year, 54.8% contained Title VII claims. ADA claims were present in 40.8% of the resolutions and ADEA claims in 7.6%. (Statute numbers in the chart below exceed the number of suits resolved and the percentages total over 100 because suits resolved under multiple statutes ("concurrent" cases) are also included in the totals of suits resolved under each statute.)

FY 2015 Resolutions by Statute

	Count	Percent of Suits
Title VII	86	54.8%
ADA	64	40.8%
ADEA	12	7.6%
EPA	1	0.6%
GINA	1	0.6%
Concurrent	6	3.8%

As shown below, Title VII suits accounted for about 87% of monetary relief obtained in FY 2015 and ADA suits for about 10%. Recoveries in concurrent suits are not included in the totals for the particular statutes.

FY 2015 Monetary Relief by Statute (rounded)

Statute	Relief (millions)	Relief Percent
Title VII	$56.9	87.1%
ADA	$6.3	9.7%
ADEA	$0.8	1.3%
Concurrent	$1.3	2.0%
Total	$65.3	100.0%

3. Bases Alleged

As shown in the following chart, disability was a basis in 38.9% of the suits resolved, retaliation in 30.6%, and sex in 27.4%. The total count exceeds suits resolved (157) because suits often contain multiple bases.

Bases Alleged in Suits Resolved

	Count	Percent of Suits
Disability	61	38.9%
Retaliation	48	30.6%
Sex	43	27.4%
Race	22	14.0%
National Origin	17	10.8%
Age	12	7.6%
Religion	9	5.7%
Equal Pay	1	0.6%
Genetic Inform.	1	0.6%

4. Issues Alleged

Discharge was an issue in 68.2% of the cases resolved during the fiscal year, harassment in 26.8%, hiring in 21.7%, and disability accommodation in 20.4%.

Issues in Suits Resolved

	Count	Percent of Suits
Discharge	107	68.2%
Harassment	42	26.8%
Hiring	34	21.7%
Disability Accomm.	32	20.4%
Terms and Conditions	17	10.8%
Prohib. Med. Inq./Exam	10	6.4%
Promotion	6	3.8%
Wages	5	3.2%
Religious Accomm.	5	3.2%
Assignment	4	2.5%
Demotion	3	1.9%
Posting Notices	2	1.3%

E. Appellate Activity

EEOC filed briefs as appellant in 12 merits cases during fiscal year 2014, and defended appeals in 2 cases. EEOC also defended one appeal in an action to enforce an administrative subpoena. At the end of the fiscal year, OGC had 20 cases pending in the United States courts of appeals involving merits suits, 17 as appellant and 3 as appellee. EEOC's Appellate Litigation Services also filed 28 briefs as amicus curiae during the fiscal year

F. Attorney's Fees Awarded against EEOC

EEOC v. Freeman, No. 09cv2573, 2015 WL 5178420 (D. Md. Sept. 4, 2015)

In this Title VII action, filed September 30, 2009, EEOC alleged that defendant, a provider of marketing services through exhibitions and conventions, engaged in a pattern or practice of using criminal justice history as a selection criterion that had a disparate impact on black and male applicants, and a pattern or practice of using credit history information as a selection criterion that had a disparate impact on black applicants. The district court granted summary judgment to defendant, finding that due to the unreliability of EEOC's experts' reports, EEOC could not establish a prima facie case of disparate impact. EEOC appealed and the United States Court of Appeals for the Fourth Circuit affirmed. The district court then awarded defendant attorney and expert fees of $938,771.50, finding that it was unreasonable for EEOC to continue to litigate the case after receiving defendant's motion to exclude EEOC's experts. EEOC did not appeal the fees award.

EEOC v. Memphis Health Center, Inc., No. 2:08-CV-02642, (W.D. Tenn. July 7, 2014, and April 14, 2015) (unreported)

In this ADEA action filed September 30, 2008, EEOC alleged that a provider of health services denied an individual a dental assistant position because of her age, 56, and in retaliation for complaining that she had been laid off from a dental assistant position because of her age. The district court granted summary judgment to defendant on both claims and EEOC did not appeal. The court awarded defendant $106,630.08 in attorney fees and costs under the Equal Access to Justice Act (EAJA). The court found that EEOC's age discrimination claim was substantially justified under the EAJA, but that its retaliation claim was not, and that EEOC's position as a whole was not substantially justified. EEOC appealed the award of attorney fees and costs, and on September 2,

2015, the parties agreed that EEOC would dismiss its appeal in consideration for defendant's acceptance of $90,000 in full satisfaction of the district court's award.

EEOC v. RJB Properties, Inc., and Blackstone Consulting, Inc., No. 10 C 2001 (N.D. Ill. Feb. 2 and June 16, 2014) (unreported)

In this Title VII action, filed March 31, 2010, EEOC alleged that defendants, providers of janitorial services, subjected Hispanic employees working at the Illinois Institute of Technology in Chicago, Illinois, to a hostile work environment, adverse terms and conditions of employment, and discharge because of their national origin, failed to hire and promote Hispanics because of their national origin, and retaliated against employees for opposing discriminatory conduct. Following the court's grant of summary judgment to RJB Properties on some of EEOC's claims, EEOC and RJB Properties resolved the remaining claims through a consent decree entered on May 1, 2013, for $360,000 in compensatory damages to 10 individuals and injunctive and affirmative relief, with each party to bear its own costs and attorney's fees. The court dismissed EEOC's claims against Blackstone Consulting, finding that it was not an employer of the individuals at issue, and awarded attorney's fees of $60,775 to Blackstone Consulting on EEOC's promotion and overtime claims against it, finding that those claims were frivolous. The court denied Blackstone Consulting's motion for fees on EEOC's naming it as a party, on an individual termination claim, and on certain hostile work environment claims, and denied Blackstone's motion for costs. Both parties appealed, and then settled Blackstone Consulting's attorney's fees claims on March 6, 2015, for $35,000, with both parties dismissing their appeals.

EEOC v. Parker Drilling Co., No. 3:13-cv-00181, 2014 WL 5410661 (D. Alaska Oct. 22 and Dec. 3, 2014)

In this ADA action, filed September 18, 2013, EEOC alleged that an international provider of materials and services for oil drilling operations withdrew an offer of employment to an applicant with vision in only one eye due to his disability or because it regarded him as disabled. During discovery, EEOC withheld documents based on the ADA's confidentiality provisions regarding conciliation materials. The court (with the exception of one document) granted defendant's motion to compel, and awarded defendant $4,160 for attorney's fees incurred in its efforts to obtain withheld materials that were "unequivocally purely factual matters." (EEOC prevailed at trial in this matter; see summary at p. 19 *supra*.)

G. Attorney's Fees Awarded to EEOC

Only defendants can recover attorney's fees as a prevailing party on the merits of a suit brought by EEOC (42 U.S.C. § 2000e-5(k) (Title VII, ADA, GINA); 42 U.S.C. § 2412(d) (EPA, ADEA)). Thus, the cases below involve only fees awarded to EEOC for success on nonmerits matters.

EEOC v. GE Oil & Gas, Inc., No. 4:14-mc-01698 (S.D. Tex. Jan. 13, 2015) (unreported)

In this action, filed July 15, 2014, to enforce investigative subpoenas issued under Title VII and the ADEA, the court found respondent in contempt for failing to comply with a September 29, 2014, order to produce information and documents sought in the subpoenas. The court awarded EEOC $300 for its costs in serving copies of the court's orders on respondent and $5,000 in attorney's fees as a contempt sanction.

EEOC v. Supervalu, Inc., American Drug Stores, Jewel Food Stores, Inc., No. 09 C 5637, 2014 WL 6791853 (N.D. Ill. Dec. 2, 2014)

In this ADA suit filed September 4, 2009, EEOC alleged that defendants, a grocery/drug chain and related entities, prohibited disabled employees on medical leave from returning to work with restrictions, denied them reasonable accommodations for their disabilities, and terminated them at the end of defendants' 1-year leave period, and denied light duty to disabled employees not injured on the job. The parties resolved the case on January 5, 2011, through a 3-year consent decree that provided $3.2 million in compensatory damages to 110 individuals and, among other relief, enjoined defendants from discriminating on the basis of disability by not providing reasonable accommodations to persons wanting to return to work from disability leave. On March 26, 2012, EEOC moved for contempt based on defendants' failure to return three former employees to work from disability leaves. Following a 3-day hearing, the court found defendants' in contempt, awarded the three former employees over $82,000 in backpay, plus interest, and awarded EEOC attorney's fees and costs incurred in bringing its contempt motion. The parties notified the court on March 5, 2015, that they had resolved the attorney's fees and costs for a payment to EEOC of $400,000.

EEOC v. Northern Hospitality d/b/a Sparks Restaurant; Northern Star Properties, LLC; and North Broadway Holdings, Inc., No. 12-cv-214 (W.D. Wis. June 16 and Aug. 26, 2015) (unreported)

In this Title VII action, filed March 27, 2012, EEOC prevailed in a jury trial on its claim that defendants, operators as a single employer of a restaurant in Menomonie, Wisconsin, discharged a black manager at the restaurant for complaining of racial harassment. The jury awarded the discharged manager $15,000 in compensatory damages and the court awarded him $49,495.50 in backpay and interest. As part of its efforts to collect the judgment, EEOC sent interrogatories to defendant North Broadway Holdings requesting information on its assets. Defendant failed to respond fully, and EEOC moved to compel. In granting EEOC's motion, the court ordered North Broadway Holdings to pay EEOC $1,600 in attorney's fees for its work on the motion to compel. The court later awarded EEOC an additional $1,000 in attorney's fees from North Broadway Holdings and its attorneys for time spent in further efforts to collect the judgment.

H. Resources

1. Staffing

Following about a 7.5% decrease in field attorney staff from FY 2012 to FY 2013, the number of field attorneys has been relatively constant.

OGC Staffing (On Board)

Year	HQ*	All Field	Field Attorneys**
2011	56	333	213
2012	52	317	211
2013	50	296	195
2014	48	284	192
2015	48	295	195

*** Includes attorneys in Appellate Services and Internal Litigation Services, and expert staff in Research and Analytic Services, all of which are described in section B of part I above; together these account for about 60% of the HQ staff.**

**** Includes Regional Attorneys, Supervisory Trial Attorneys, and Trial Attorneys.**

2. Litigation Budget

EEOC's litigation funding was about the same as last fiscal year.

Litigation Support Funding (Millions)

FY	FUNDING
2011	$4.10
2012	$4.07
2013	$4.13
2014	$3.59
2015	$3.55

I. Historical Summary: Tables and Charts

1. EEOC 10-Year Litigation History: FY 2006 through FY 2015

	FY06	FY07	FY08	FY09	FY10	FY11	FY12	FY13	FY14	FY15
All Suits Filed	403	362	325	316	272	301	155	149	168	174
Merits Suits	371	336	290	281	250	261	122	131	133	142
Suits with Title VII Claims	294	268	224	188	192	162	66	77	77	83
Suits with ADA Claims	42	46	37	76	41	80	45	49	49	52
Suits with ADEA Claims	50	32	38	24	29	26	12	7	11	13
Suits with EPA Claims	10	7	0	2	2	2	2	5	2	7
Suits with GINA Claims	0	0	0	0	0	0	0	3	2	1
Suits filed under multiple statutes[1]	22	16	9	9	14	9	3		7	14
Subpoena and Preliminary Relief Actions	32	26	35	35	22	40	33	18	35	32
All Resolutions	418	387	367	352	318	318	280	228	144	193
Merits Suits	383	364	336	324	289	278	251	213	136	157
Suits with Title VII Claims	295	297	265	254	201	215	159	137	87	86
Suits with ADA Claims	50	41	46	40	59	43	72	60	47	64
Suits with ADEA Claims	50	36	39	38	39	26	29	17	11	12
Suits with EPA Claims	8	14	3	5	0	0	2	4	5	1
Suits with GINA Claims	0	0	0	0	0	0	0	1	1	1
Suits filed under multiple statutes	17	19	16	13	10	8	11	6	13	6
Subpoena and Preliminary Relief Actions	35	23	31	28	29	40	29	15	8	36
Monetary Benefits ($ in millions)[2]	44.3	54.8	101.1	81.6	85.6	89.7	43.2	39.0	22.5	65.3
Title VII	34.3	38.9	64.9	64.5	74.0	53	34.2	22.4	15.3	56.9
ADA	2.8	3.1	3.3	9.5	2.9	27.1	5.5	14.0	16.6	6.3
ADEA	5.1	2.4	29.9	6.7	5.8	8.4	2.6	2.1	8.4	.81
EPA	0	0.2	1.0	0.02	0	0	0	.24	.56	0
GINA	0	0	0	0	0	0	0	0	0	0
Suits filed under multiple statutes[3]	2.1	10.2	1.7	0.9	2.9	1.1	0.9	.24	6.5	1.3

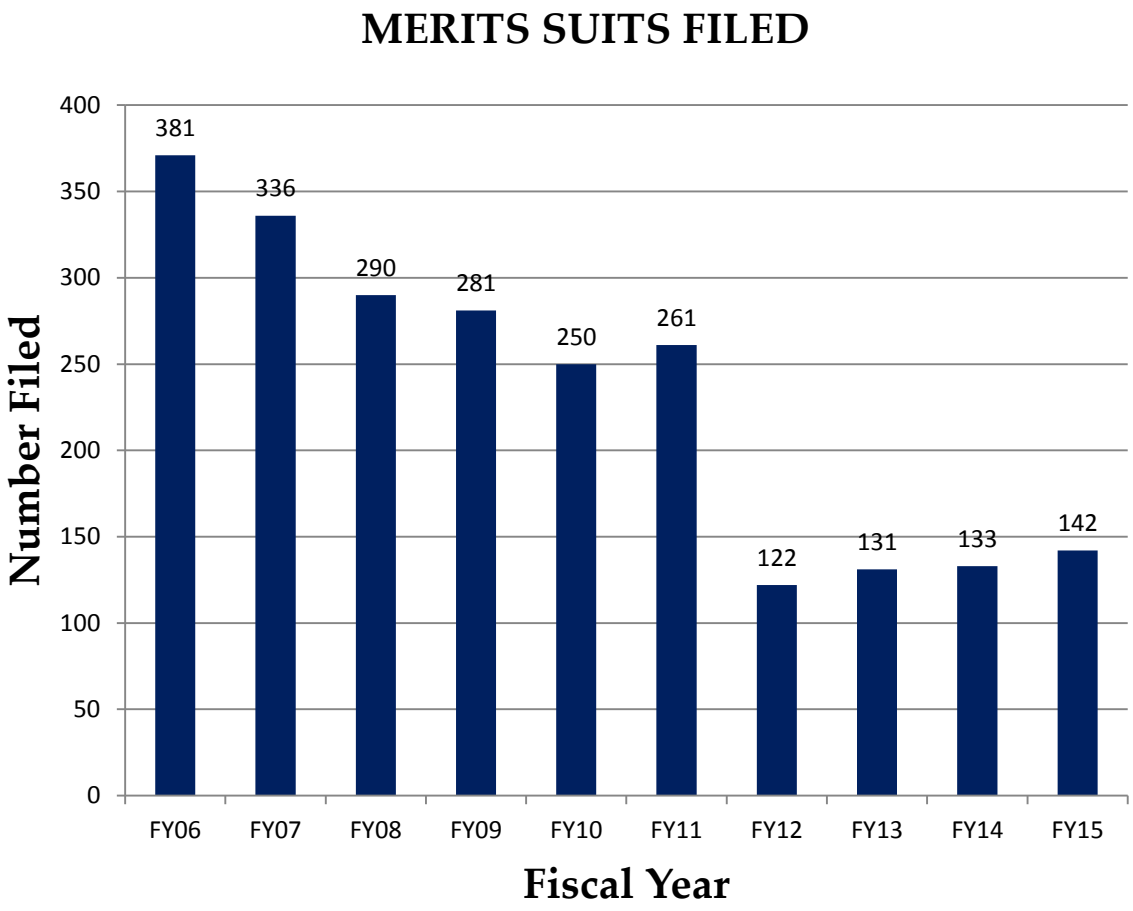
[1] Suits filed or resolved under multiple statutes are also included in the tally of suits filed under the particular statutes.

[2] The sum of the statute benefits in some years will be different from total benefits for the year due to rounding.

[3] Monetary benefits recovered in suits filed under multiple statutes are counted separately and are not included in the tally of suits filed under the particular statutes.

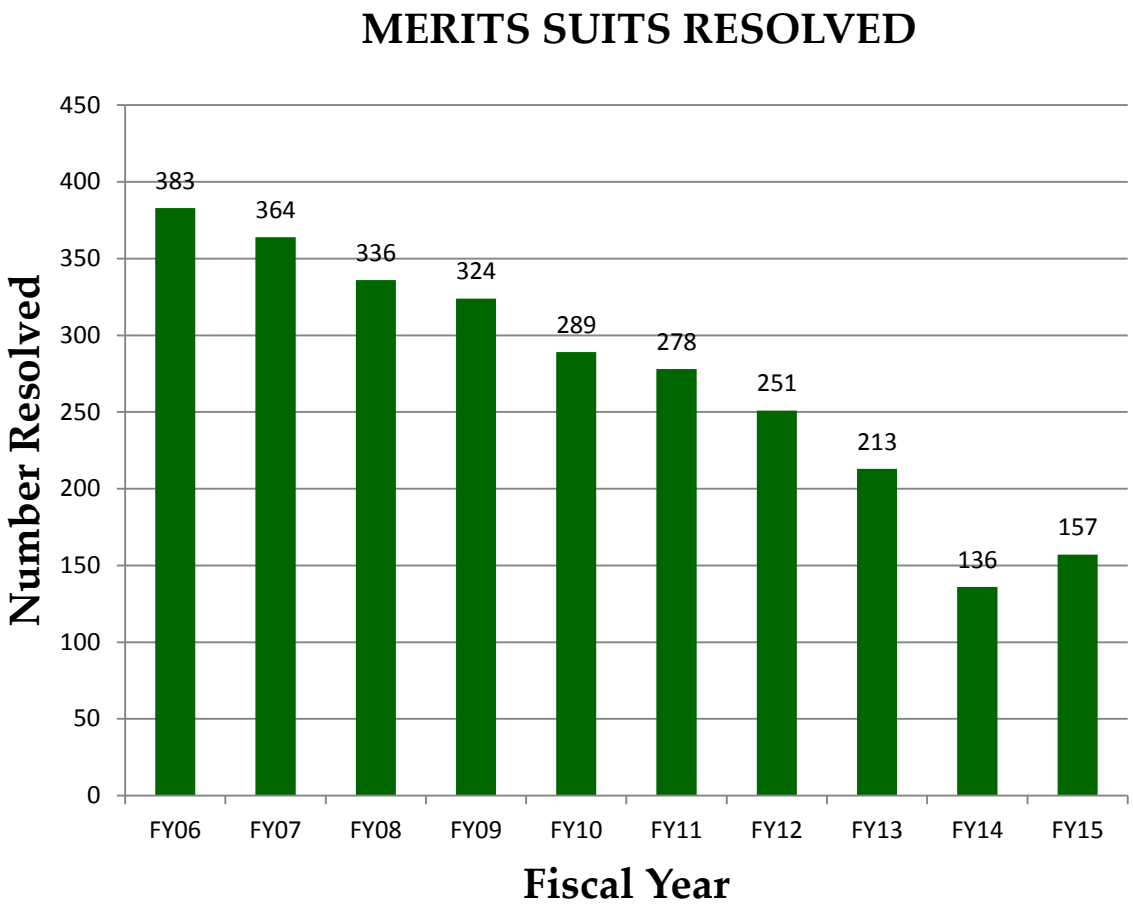
2. Merits Suits Filed FY 2006 through FY 2015

The chart below shows the number of merits suits filed for FY 2006 through FY 2015



3. Merits Suits Resolved FY 2006 through FY 2015

The chart below shows the number of merits suits resolved for FY 2006 through FY 2015.



4. Monetary Recovery FY 2006 through FY 2015

The chart below shows the monetary recovery for FY 2006 through FY 2015.