



California Association of  
**Equal Rights Professionals**

**TO:** CAERP EXECUTIVE BOARD MEMBERS  
**FROM:** ESTELA TARANO, LEGISLATIVE CHAIR  
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## *Legislative Analysis*

**A Look at EO Legal Updates, Case Law Impacting Employers and Other  
Items of Interest to the EO Practitioner...**

**This Special Issue will cover the most current and very delicate subject of  
RETALIATION**

The past predictions of legal experts have come true: Retaliation claims filed against employers have risen dramatically. In fact, the number of retaliation claims filed with the Equal Employment Opportunity Commission (EEOC) has jumped 35 percent over the past decade, according to Mary Jo O'Neill, regional attorney with the agency's Phoenix District Office.

And now those numbers are likely to increase even more, courtesy of a late-June ruling from the U.S. Supreme Court in the case of *Burlington Northern & Santa Fe Railway Co. v. White* (126 S. Ct. 2405).

The ruling expands the definition of employer retaliation, making it easier for employees to file such claims. Specifically, it allows workers to file retaliation suits even when an employment action does not diminish their pay, hours or benefits, or cause them to suffer a monetary loss of any kind.

The high court also reached the startling conclusion that anti-retaliation law potentially extends to any employer conduct, even when it is not work-related.

Most legal experts agree that HR professionals will now have their work cut out for them in the retaliation arena. As a result of this ruling, HR will have a "huge" role in helping employers fend off retaliation claims, predicted John Doran—a partner in Greenberg Traurig in Phoenix and a member of the Management Labor & Employment Roundtable (MLER)—in a series of exchanges among management employment attorneys, lawyers representing employees, the EEOC, consultants, HR professionals and in-house counsel.

Most notably, HR professionals will need to take a renewed, and perhaps different, role in establishing policy and in training managers to be better practitioners of good HR.

## **The Facts of the Case**

In the Burlington Northern case, the Supreme Court grappled with a fundamental question: What kind of employer behavior constitutes retaliation under Title VII of the Civil Rights Act of 1964?

The case centered on Sheila White, who worked in the railroad's Tennessee Yard and was assigned to operate a forklift—a cleaner, less onerous task than those performed by other yard workers.

But White lost this plum assignment after making an internal sexual harassment complaint against her foreman, Bill Joiner. After an investigation, Joiner was disciplined.

When Marvin Brown, the manager in charge, informed White of the investigation's results, he also told her she would no longer be operating the forklift because co-workers complained that she had received the cushier position despite having less seniority than some of her peers. As a result, White was assigned to perform the more arduous tasks performed by other yard workers.

White reacted by filing a complaint with the EEOC, alleging sex discrimination and retaliation. She also filed a second discrimination charge with the EEOC for retaliation, alleging that Brown had placed her under surveillance.

Around the time of the second charge, White had a disagreement with her new foreman, Percy Sharkey. Sharkey reported the disagreement to Brown, who decided that White's behavior constituted insubordination and that she should lose her job. Within three days of the second EEOC charge being mailed to Brown, he suspended White without pay. Under a company procedure, the suspension would convert to a discharge unless successfully challenged in grievance procedures.

White successfully challenged the suspension and was reinstated with full back pay and benefits. Nevertheless, she sued Burlington Northern in court for sex discrimination and retaliation. A jury found for the employer on the sex discrimination claim but held that its behavior constituted unlawful retaliation. Appeals eventually led to the Supreme Court, which upheld the jury's verdict.

The court held that White's removal from the forklift and her suspension constituted retaliation, even though her job status—including pay, hours and benefits—did not change, and even though she did not suffer a monetary loss.

The fact that Burlington Northern reinstated White with back pay was immaterial as to whether it violated the law. Citing Congress' desire to promote "unfettered access to statutory remedial mechanisms," the court ruled that the sweep of the anti-retaliation law extends to any employer conduct, even when it is not work-related, that is severe enough to deter a reasonable employee from exercising her legal right to object to discrimination.

The court also ruled that whether such conduct reaches this threshold cannot be spelled out comprehensively. Rather, each case will have to be evaluated within its own context.

The Supreme Court cautioned, though, that Title VII's anti-retaliation provision "does not confine the actions and harms it forbids to those that are related to employment or occur at the workplace." An employer can retaliate through actions taken outside the workplace such as by filing false criminal charges against a former employee who complained about discrimination.

"Context matters," the Supreme Court stated. "A supervisor's refusal to invite an employee to lunch is normally trivial, a non-actionable petty slight. But to retaliate by excluding an employee from a weekly training lunch that contributes significantly to the employee's professional advancement might well deter a reasonable employee from complaining about discrimination" and consequently might be retaliatory, according to the court.

### **Potential Aftereffects of the Decision**

The court's decision to assess "context" will result in more cases being filed and fewer of them being resolved on summary judgment, according to Corbett Gordon, senior counsel with Fisher & Phillips LLP in Portland, Ore., and an MLER member.

"Any time a court needs to weigh factual issues, it is an invitation for employees or former employees to sue, because 'context' questions are factual and raise a matter for the jury. This is bad news for employers, since the defense costs of taking a case through trial are considerable, even if the company wins in the end," Gordon reflects.

The EEOC's O'Neill applauds the ruling and says it will sweep away a number of court-imposed obstacles that get in the way of her agency and other plaintiffs. (She also points out that even before the decision - in fiscal year 2004 alone - retaliation charges resolved by the EEOC resulted in monetary payments from employers that exceeded \$90 million. This figure does not include employer judgment and settlement payments through litigation.)

The court's expansion of what constitutes retaliation may encourage employees with performance issues, in particular, to assert claims of discrimination—even ones that lack merit—simply to gain the protections of anti-retaliation provisions of Title VII.

Although retaliation claims arise in myriad ways, "they are most commonly brought by employees with a history of performance problems," according to Eric Hemmendinger of Shawe Rosenthal LLP, a Worklaw<sup>®</sup> Network affiliate in Baltimore.

"Typically, the employee first complains of discrimination after some adverse decision like discipline or non-promotion due to a performance problem," he says. "As the problem continues and the employer takes progressively stronger action, the employee complains that the additional action is in retaliation for his earlier complaint."

Bill Berger, a shareholder in Stettner Miller & Cohn PC, a Worklaw<sup>®</sup> Network affiliate in Denver, raises the prospect that the ruling could be expanded to affect the way retaliation is handled under other laws, as well. "Since Title VII is the nation's flagship antidiscrimination

statute, the likelihood is that Burlington Northern will have a liberalizing influence on other anti-retaliation laws—and more litigation will result," he says.

Other legal experts, however, see natural and practical factors that will limit the scope of this ruling.

One attorney who holds that view is William Ryan of the Donati Law Firm in Memphis, Tenn.—one of the plaintiffs' attorneys who represented Sheila White against Burlington Northern. "You still have to have strong evidence of retaliatory motive," he notes.

He also points out that financial issues may serve to limit such litigation. "It's still going to be hard to get plaintiffs' attorneys to take cases where the employee hasn't lost any money since most of our cases are on a contingency fee basis and the economics usually don't make sense," he says. "That's even true with cases like this one that allow for attorneys' fees."

Ryan says his firm "almost didn't take White's case despite what we felt was overwhelming evidence of retaliation and sex discrimination." He explains that "filing cases for the hope of attorneys' fees is a risky business proposition. Indeed, we've gone seven years without a penny for the time we've spent and expenses we've incurred, and if the Supreme Court hadn't gone our way, we'd be out completely."

Greg Guidry, a partner with Onebane Law Firm in Lafayette, LA., and an MLER member, feels that "much of what is going to happen here is more 'hype' than a major change in the law. The main value of this case is that it serves as an excellent tool for HR professionals to get management's attention in emphasizing the need for HR input on employment decisions and for preventative training. Otherwise, I don't think the case signifies any real shift in the workplace landscape."

## **HR's Heightened Role**

While the ultimate scope of this ruling's effect may be subject to debate, this much is clear: In light of the Burlington Northern decision, the best way for employers to avoid liability for retaliation is to prevent it from ever happening. Hearing employee grievances and rectifying past offenses—as Burlington Northern did by reinstating White after her suspension—won't necessarily win the case before a judge or jury.

Thus, HR professionals and employers will need to give managers guidance and tools to keep them from making a decision that is—or appears to be—retaliatory. And that will require HR to review its policies, modify its training and establish a mechanism for reviewing all pertinent management decisions for potential retaliatory effect.

HR professionals will need to start by adding an anti-retaliation policy—or updating an existing one—to reflect the Supreme Court's decision. The policy should make it crystal clear that workplace retaliation will not be tolerated.

Michael Patrick O'Brien, a partner with Jones Waldo Holbrook & McDonough PC in Salt Lake City, recommends that the policy include the following:

- A clear statement that, like discrimination and harassment, retaliation is prohibited by both law and company policy, and those retaliatory acts will lead to discipline and/or discharge.
- A brief illustration of types of conduct that might be prohibited by the policy.
- A mechanism for reporting possible acts of retaliation.
- A statement that complaints will be promptly investigated and resolved as appropriate.
- A statement that complaints will be maintained as confidential to the extent practicable, given the need to investigate and resolve issues.

The EEOC's O'Neill says employers also should provide "specific training on the subject of retaliation, including using Burlington Northern to explain what can constitute retaliation." She recommends that employers:

- Instruct supervisors not to engage in any potential retaliatory action after internal or external complaints have been made.
- Set up checks or reviews by HR, legal or another third party before any status-changing decisions (e.g., new assignments, new offices, a transfer or other actions) are made regarding a complainant.
- Have a trusted person from HR or another source check in periodically with the complainant to make sure everything is OK.
- Be sure to document the actions above.

O'Brien adds that an effective training program will include:

- A straightforward description of the company's anti-harassment policy.
- Examples and stories to explain what acts could be viewed as retaliatory, since retaliation might be even more difficult to define than harassment.
- An explanation of the consequences of engaging in retaliation.
- Practical steps and suggestions on how supervisors should vet possible actions toward protected employees with HR or legal counsel before acting.

## **Evolved HR and Managerial Roles**

As important as training and updated policies are to stem the tide of retaliation claims, the Supreme Court's ruling may have a much more far-reaching impact on the role of HR professionals and managers.

What really is needed is "a paradigm shift," according to Paul Jones, vice president of human resources for USANA Health Sciences Inc. "HR staffs must become the experts who develop leadership teams that, in their own right, are excellent with human relations and employment law," he says. "Line managers must be well-trained in all aspects of HR and have enough information to take proper steps to prevent potential claims and know when help is needed."

Without this shift, Jones believes, HR risks being viewed as nothing more than a meddling workplace cop.

James Bramble, USANA Health Sciences' vice president and general counsel, adds that "Burlington Northern reinforces the idea that HR professionals today need to follow a strategic approach where each manager is also considered an HR manager. The responsibility for managing employee behavior rests with the supervisors who interact daily with employees and understand better what a reasonable employee is in a given context. HR must ensure that supervisors are trained and have the knowledge needed to meet this responsibility."

## **Proverbial Phoenix**

Most attorneys and HR professionals are well aware that it doesn't take a strong discrimination case to make a strong retaliation case. In fact, it's often the weak discrimination claim that produces the big-time retaliation lawsuit.

As employers grapple with the ripples from Burlington Northern, Doran recommends that they "modify the old adage that 'two wrongs don't make a right' into the adage that 'one wrong can make two huge wrongs.' "

Doran cautions that "an act of retaliation can convert an otherwise preposterous and easily defensible discrimination claim into potentially devastating legal liability. Putting it another way, the retaliation claim will breathe life into an otherwise moribund discrimination claim, and an employer's liability will rise from the ashes like the phoenix."

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## **Employers should brace for spike in retaliation claims**

**By Allen Smith**

In recent years, most employment law from the Supreme Court has been "moderately favorable for employers," but a June 22 ruling that an employer was liable for damages for retaliation is "about as employee-friendly as it could be," according to Joel Rice, a management attorney with Fisher & Phillips in Chicago. He said he was surprised by the court's unanimous ruling, telling *HR News* that "it certainly will encourage a greater number of disgruntled employees to consider retaliation claims."

The ruling is "guaranteed to generate more litigation," agreed Ann Reesman, general counsel for the Equal Employment Advisory Council. She described the court's standard for determining whether employer conduct is unlawful retaliation "a legal fiction." The reality for employers in the wake of the ruling should be more training for managers to be "very careful and deliberate when making employment decisions," Reesman remarked in an interview.

The case that rose all the way to the Supreme Court involved Sheila White, who was the only female forklift operator at the Tennessee Yard of Burlington Northern & Santa Fe Railway Co.

When she was hired, she started work as a track laborer, removing and replacing track components, transporting track material, cutting brush and clearing litter and cargo spillage from the right of way. But soon after she started, a co-worker who had previously operated the forklift left, and operating the forklift became her main responsibility.

White said her supervisor repeatedly told her women should not be working in the maintenance-of-way department and allegedly made insulting and inappropriate remarks to her in front of male colleagues. Burlington suspended the supervisor for 10 days and ordered him to attend sexual harassment training. However, White was removed from forklift duty and assigned to perform only standard track laborer tasks. In reassigning her, the road master said that in light of co-worker complaints a “more senior man” should have the “less arduous and cleaner job” of forklift operator.

White sued for sex discrimination under Title VII, alleging retaliation. After her claim was filed, a new immediate supervisor disagreed with her about which truck should transport White from one location to another. The supervisor claimed she was insubordinate and suspended her. She invoked the internal grievance procedures, which led to a conclusion that she had not been insubordinate and an award of back pay for the 37 days she was suspended. White filed an additional retaliation charge as a result of the suspension.

A jury found in White’s favor on the retaliation claim and awarded \$43,500 in compensatory damages and \$3,250 in medical expenses, and the 6th Circuit ultimately affirmed.

### **Bar is set low**

On appeal, the Supreme Court affirmed. The company and the solicitor general argued that there should be a link between the challenged retaliatory action and the terms, conditions or status of employment for there to be unlawful retaliation.

But the court adopted a lower standard, determining that Title VII’s prohibition on retaliation provides broad protection beyond actions directly related to employment if the actions would dissuade a reasonable worker from bringing a discrimination charge. This standard is consistent with rulings in the 7th Circuit and the D.C. Circuit as well as Equal Employment Opportunity Commission guidance.

Applying this standard, the Supreme Court concluded that Burlington retaliated against White unlawfully. The court rejected Burlington’s argument that a reassignment of duties could not be retaliation when the former and present duties fell within the same job description. “We do not see why that is so,” the court stated. “Almost every job category involves some responsibilities and duties that are less desirable than others.”

In addition, the court rejected Burlington’s argument that the suspension was not retaliatory when the company ultimately reinstated her with back pay. The court observed that White and her family had to live for 37 days without income, referring to her testimony that the suspension resulted in “the worst Christmas I had out of my life. No income, no money, and that made all of

us feel bad. ... I got very depressed.” So, the jury’s determination that the suspension was materially adverse was reasonable, the court ruled.

“Context matters,” the court stated. “A schedule change in an employee’s work schedule may make little difference to many workers, but may matter enormously to a young mother with school age children.” And in another hypothetical, it noted that “a supervisor’s refusal to invite an employee to lunch is normally trivial, a non-actionable petty slight. But to retaliate by excluding an employee from a weekly training lunch that contributes significantly to the employee’s professional advancement might well deter a reasonable employee from complaining about discrimination” ([\*Burlington Northern & Santa Fe Railway Co. v. White\*](#), No. 05-259 (2006)).

Reesman said she was “surprised by what a low threshold” the court set for unlawful retaliation. But employers can’t react by treating anyone who claims discrimination with kid gloves, she said, because “you can’t run a business that way.”

Instead, employers should provide “booster training for managers and supervisors” that focuses on “making good, job-related job decisions and documenting it,” she said.

Rice reflected that “the lesson is that retaliation claims are probably a bigger concern than the original discrimination claim itself.” As a result, managers need to “tread very carefully” in response to discrimination claims, look into them, and satisfy the employee that the claim is taken seriously,” plus be careful with its actions with the employee and make sure they are based on sound business reasons.

*Allen Smith, J.D., is senior legal editor for HR Newsletter.*

## **THE RISING TIDE OF RETALIATION CLAIMS**

**By Elaine Herskowitz, Esq.**

November 2000  
Reviewed August 2002

During the past five years, charges filed with the U.S. Equal Employment Opportunity Commission alleging retaliation have increased significantly. In 1994, these charges represented 17.4 percent of the EEOC's docket. They now comprise more than 25 percent of all EEOC charges. (Data can be found at <http://www.eeoc.gov/stats/charges.html>.) In contrast, charges alleging job discrimination based on race, sex, national origin, age and disability have decreased.

Retaliation claims are plaintiff's lawyers' most powerful weapon. (See "Retaliation Claim is Top Weapon for Fired Workers," *Lawyers Weekly USA*, March 6, 2000: 193.) These lawyers say that such claims are generally easier to prove and result in bigger verdicts than other discrimination claims. Jurors readily recognize that, as a matter of human nature, a supervisor accused of discrimination would likely want to lash back at the employee. As one defense lawyer has commented, employers are spurred to retaliate against employees because they perceive the filing of a discrimination complaint as an extreme act of disloyalty. (See "Retaliation Against Employees Spurred by Employers' Perception of Disloyalty," *BNA Employment Discrimination Report*, November 1, 2000: 610.)

### **What Sorts of Actions Can be Challenged as Retaliatory?**

It is the position of the U.S. Equal Employment Opportunity Commission that a retaliatory act violates the anti-discrimination laws if it is "reasonably likely to deter protected activity." Thus, while petty slights and trivial annoyances are not actionable, retaliatory harassment, threats, transfers and other more significant adverse treatment can be challenged. (The EEOC's most recent policy document on retaliation claims can be found at <http://www.eeoc.gov/docs/retal.html>.)

Courts are split with regard to the nature of acts that can be challenged as retaliatory. The Ninth Circuit has adopted the EEOC's standard. In *Ray v. Henderson*, the court ruled that the plaintiff had an actionable claim where his supervisors, in retaliation for his complaints concerning management's treatment of female employees, subjected him to verbal abuse and other punitive actions. That court, along with three other circuit courts of appeal, have also permitted claims based on management's failure to correct retaliatory harassment by co-workers. On the other hand, certain other courts have adopted a more restrictive standard, only permitting retaliation claims that challenge "ultimate employment actions" such as discharge and failure to promote.

The Supreme Court, in *Robinson v. Shell Oil Co.*, held that retaliation can be challenged even if the act occurred after the employment relationship between the complainant and the employer ended. Thus, if a complainant's former supervisor gives a negative job reference in retaliation for his having filed a discrimination charge, then a violation would be found. Even the mere disclosure of information to prospective employers about the individual's charge could be found unlawful, since there would not likely be a legitimate reason to provide such information.

## How Can Retaliation Be Prevented?

It is critical that employers take steps to prevent retaliation against individuals who complain about discrimination or provide information related to discrimination complaints. By preventing retaliation or correcting it at an early stage, employers can avoid litigation or minimize damages in suits that are filed.

### To prevent retaliation, employers should take the following steps:

- **Adopt and disseminate a strong anti-retaliation policy.** While this can be contained in your organization's anti-discrimination and anti-harassment policies, a separate anti-retaliation policy may be more effective. The policy should make clear that your organization will not tolerate retaliatory conduct based on an employee's opposition to job discrimination or harassment or participation in discrimination complaint proceedings.
- **Inform employees about the process for reporting alleged retaliation.** Your organization's anti-retaliation policy should explain whom employees should go to in order to report retaliation. For example, you might instruct employees to go to anyone in their chain of command or your organization's human resources office.
- **Train managers on the subject of retaliation.** Training is particularly important because individuals accused of discrimination may unconsciously lash back at the accuser or witnesses. Managers should be trained on acceptable and unacceptable responses to protected activity under the anti-discrimination laws.
- **Remind supervisors who are accused of discrimination of the company's policy prohibiting retaliation against the complainant or witnesses.** Make clear to supervisors that they will be subjected to disciplinary action if they retaliate against individuals who complain of discrimination or provide information related to a discrimination complaint.
- **Monitor the treatment of employees who complain of discrimination or provide information related to discrimination complaints to ensure that they are not subjected to retaliation.** Carefully scrutinize any proposed adverse action against a discrimination complainant or witness to ensure that it is based on a legitimate and not retaliatory reason.
- **Investigate allegations of retaliation and take prompt corrective action when retaliation occurs.** Retaliation should be stopped even if it is not significant enough to violate federal law. Such corrective action prevents the retaliation from escalating to the point that the law is violated.

If unlawful retaliation occurs despite these efforts, your organization's preventive and corrective measures will help to limit its liability. Promptly stopping retaliation cuts off the harm to the victim, thereby limiting the compensatory damages to which he or she would be entitled. Moreover, a court will not award punitive damages if the retaliating manager's actions were contrary to your organization's good faith efforts to comply with the law.

*Thanks To Elaine Herskowitz for contributing this article. It is intended as information only and is not a substitute for legal or professional advice. Elaine Herskowitz, Esq., provides training and consulting on equal employment opportunity issues. Ms. Herskowitz previously served as a senior staff attorney at the U.S. Equal Employment Opportunity Commission. While there, she drafted policy documents and provided guidance to EEOC senior personnel, investigators, and attorneys. Ms. Herskowitz can be contacted at 301-299-0234, by e-mail at [herskowitz@eeotrainer.com](mailto:herskowitz@eeotrainer.com) or visit her website at <http://www.eeotrainer.com/>.*

## Charge Statistics FY 1992 Through FY 2005

The number for total charges reflects the number of individual charge filings. Because individuals often file charges claiming multiple types of discrimination, the number of total charges for any given fiscal year will be less than the total of the eight types of discrimination listed.

The data are compiled by the Office of Research, Information, and Planning from EEOC's Charge Data System - quarterly reconciled Data Summary Reports, and the national data base.

	<b>FY 1992</b>	<b>FY 1993</b>	<b>FY 1994</b>	<b>FY 1995</b>	<b>FY 1996</b>	<b>FY 1997</b>	<b>FY 1998</b>	<b>FY 1999</b>	<b>FY 2000</b>	<b>FY 2001</b>	<b>FY 2002</b>	<b>FY 2003</b>	<b>FY 2004</b>	<b>FY 2005</b>
<b>Total Charges</b>	72,302	87,942	91,189	87,529	77,990	80,680	79,591	77,444	79,896	80,840	84,442	81,293	79,432	75,428
<b>Race</b>	29,548	31,695	31,656	29,986	26,287	29,199	28,820	28,819	28,945	28,912	29,910	28,526	27,696	26,740
	40.9%	36.0%	34.8%	34.3%	33.8%	36.2%	36.2%	37.3%	36.2%	35.8%	35.4%	35.1%	34.9%	35.5%
<b>Sex</b>	21,796	23,919	25,860	26,181	23,813	24,728	24,454	23,907	25,194	25,140	25,536	24,362	24,249	23,094
	30.1%	27.2%	28.4%	29.9%	30.6%	30.7%	30.7%	30.9%	31.5%	31.1%	30.2%	30.0%	30.5%	30.6%
<b>National Origin</b>	7,434	7,454	7,414	7,035	6,687	6,712	6,778	7,108	7,792	8,025	9,046	8,450	8,361	8,035
	10.3%	8.5%	8.1%	8.0%	8.6%	8.3%	8.5%	9.2%	9.8%	9.9%	10.7%	10.4%	10.5%	10.7%
<b>Religion</b>	1,388	1,449	1,546	1,581	1,564	1,709	1,786	1,811	1,939	2,127	2,572	2,532	2,466	2,340
	1.9%	1.6%	1.7%	1.8%	2.0%	2.1%	2.2%	2.3%	2.4%	2.6%	3.0%	3.1%	3.1%	3.1%
<b>Retaliation - All Statutes</b>	11,096	13,814	15,853	17,070	16,080	18,198	19,114	19,694	21,613	22,257	22,768	22,690	22,740	22,278
	15.3%	15.7%	17.4%	19.5%	20.6%	22.6%	24.0%	25.4%	27.1%	27.5%	27.0%	27.9%	28.6%	29.5%
<b>Retaliation - Title VII only</b>	10,499	12,644	14,415	15,342	14,412	16,394	17,246	17,883	19,753	20,407	20,814	20,615	20,240	19,429
	14.5%	14.4%	15.8%	17.5%	18.5%	20.3%	21.7%	23.1%	24.7%	25.2%	24.6%	25.4%	25.5%	25.8%

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<b>Age</b>	19,573	19,809	19,618	17,416	15,719	15,785	15,191	14,141	16,008	17,405	19,921	19,124	17,837	16,585
	27.1%	22.5%	21.5%	19.9%	20.2%	19.6%	19.1%	18.3%	20.0%	21.5%	23.6%	23.5%	22.5%	22.0%
<b>Disability</b>	*1,048	15,274	18,859	19,798	18,046	18,108	17,806	17,007	15,864	16,470	15,964	15,377	15,376	14,893
	1.4%	17.4%	20.7%	22.6%	23.1%	22.4%	22.4%	22.0%	19.9%	20.4%	18.9%	18.9%	19.4%	19.7%
<b>Equal Pay Act</b>	1,294	1,328	1,381	1,275	969	1,134	1,071	1,044	1,270	1,251	1,256	1,167	1,011	970
	1.8%	1.5%	1.5%	1.5%	1.2%	1.4%	1.3%	1.3%	1.6%	1.5%	1.5%	1.4%	1.3%	1.3%

\* EEOC began enforcing the Americans with Disabilities Act on July 26, 1992.

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