

Lay-Offs Down, EEOC Charges Up

By: Malissa Wilson

Current labor department statistics reflect a steady decrease in layoffs since the 2007-2009 recession. While layoffs are down, charges of discrimination filed with the Equal Employment Opportunity Commission (EEOC) are steadily going up. Nationally, the number of charges has increased from 75,768 in 2016 to 91,503 in 2016. As for the specific type of charge, retaliation claims currently top the national list at 42,018 followed by race claims at 32,309.

Mississippi has also seen an uptick in the number of charges filed with the EEOC from 1,754 in 2009 to 1,865 in 2016. However, unlike the national trend, race claims account for over 43% of all claims filed in the state followed by retaliation claims at 38%. The state's 2016 statistics are as follows, in descending order:

- Race – 818 – 43.9%
- Retaliation – 710 – 38.1%
- Sex – 527 claims filed – 28.3%
- Disability -418 claims filed – 22.4%
- Age – 299 claims filed – 16%
- Religion – 43 claims filed -2.3%
- National Origin – 39 claims filed – 2.1%
- Color – 39 claims filed – 2.1%
- GINA (Genetic Information Nondiscrimination Act of 2008) – 17 claims filed – .9%
- Equal Pay Act – 11 claims filed – .6%

Notably, charges of discrimination filed do not necessarily translate into lawsuits filed. Only a small fraction of the total number of charges filed is litigated. According to EEOC statistics, in 2016, out of 91,503 total charges filed only 114 resulted in the EEOC filing suit (this total does not include the number of suits filed by individuals, which is still lower than the total number of charges filed).

To avoid charges and lawsuits altogether, as a practical matter, employers should consistently train human resources personnel, supervisors and employees on anti-discrimination policies and practices. Employers should also periodically review and refresh policies to ensure they comply with current laws and address current employment trends, such as social networking. Although it is unlikely a charge will result in the employer going to trial and paying a plaintiff's

verdict, it can result in bad press, disruption in business activities and attorney's fees – all of which can affect the employer's bottom line.

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