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HRA-GC LEGAL UPDATE
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EEOC Reports Record Recoveries in 2013

On December 16, 2013, the Equal Employment Opportunity Commission (EEOC) released its annual Performance and Accountability Report for fiscal year (FY) 2013, which ended on September 30, 2013. Despite complications from government sequestration, furloughs, and hiring freezes, the EEOC recovered more than \$372 million in monetary relief for private sector employees who pursued claims of workplace discrimination. Let's briefly review some of the key statistics and findings from the report, compare the results to prior fiscal years, and interpret their significance for FY 2014.

Key Report statistics

Some of the key statistics from the Performance and Accountability Report include:

- The EEOC obtained monetary and non-monetary relief for 70,522 people through various types of administrative action, including mediation, settlements, and conciliation.
- The EEOC recovered a total of \$372.1 million in monetary relief for claimants, an increase of \$6.7 million from FY 2012, the previous record high.
- Of the \$372.1 million recovered, \$160.9 million was recovered through the EEOC's mediation program, the second highest amount recovered in the program's history.
- The EEOC received 93,727 new private sector discrimination cases, a decrease of approximately 6,000 cases from the prior three fiscal years.
- The EEOC's backlog of pending cases increased slightly (from 70,312 in FY 2012 to 70,781 in FY 2013).

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- The EEOC resolved 97,252 cases, a decrease of approximately 14,000 cases from FY 2012, an outcome that may be the result of budgetary and staffing constraints due to the sequestration, furloughs, and hiring freezes.
- The average time EEOC staff took to resolve a case decreased by 21 days, from 288 in FY 2012 to 267 in FY 2013.
- The EEOC filed 131 lawsuits (an increase of 9 cases from FY 2012, but a decrease of 130 cases from FY 2011).

Prevalence of EEOC lawsuits involving “systemic discrimination”

One of the key findings from the Report is the EEOC’s continuing emphasis on combatting “systemic discrimination,” which the EEOC defines as “pattern or practice, policy, or class cases where the alleged discrimination has a broad impact on the industry, occupation, or geographic area.” Although the EEOC is generally filing fewer lawsuits than in years past, a greater percentage of lawsuits filed target claims of systemic discrimination. Of the 131 lawsuits filed by the EEOC in FY 2013, 21 (16%) were cases involving allegations of systemic discrimination, including challenges to discriminatory hiring practices, criminal records policies, and unequal pay practices. Of the 231 open cases the EEOC had on file at the end of FY 2013, 54 (23%) were cases involving allegations of systemic discrimination, the highest percentage since this statistic was first tracked in FY 2006. Systemic discrimination cases alone accounted for approximately \$40 million of the monetary relief obtained in FY 2013.

Bottom line

Despite sequestration and other constraints, the EEOC had a banner year in FY 2013 in terms of financial relief obtained in employees’ claims of workplace discrimination in the private sector. In FY 2014, employers should expect continued EEOC emphasis on challenges to systemic discrimination, quite possibly because these cases (which potentially involve widespread discriminatory practices) are seen to pose the greatest “bang for the EEOC’s buck” in terms of the EEOC’s efforts to combat workplace discrimination.

The FY 2013 Performance and Accountability Report can be found at <http://www.eeoc.gov/eeoc/plan/upload/2013par.pdf>.