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**EEOC Charges Increased by 9.2%**

The EEOC last week released its Charge analyses for its Fiscal Year ending September 30, 2024. Because Charges often claim violations of multiple statutes, it takes the EEOC months to prepare this report. The following comparisons of FY 2024 to FY 2023 are particularly noteworthy:

- Overall charge filings increased by 9.2%, from 81,055 for FY '23 to 88,531 for FY '24.
- Retaliation charges declined from 46,047 (54%) during FY '23 to 42,301 (47.8%) during FY '24. This is one of the rare times since the EEOC first published this information in 1997 that retaliation charges declined.
- Disability charges increased from 29,160 (36%) to 33,668 (38%).
- Pregnant Workers Fairness Act charges comprised 3.1% (2,729) of all charges filed during FY '24; the PWFA did not become effective until June 27, 2023, so FY 2024 is the first full year when PWFA charges could be filed. This is consistent with filings under the PDA.
- Age charges increased from 14,144 (17.4%) to 16,223 (18.3%).
- Race charges increased from 27,505 (33.9%) to 30,270 (34.2%).
  - Race-based harassment charges (a subtype of all race charges) increased from 11,270 (13.9%) to 12,863 (14.5%).
- Sex charges declined as a percentage of charges filed from 25,473 (31.4%) to 26,872 (30.4%).
  - Sex-based harassment charges (a subtype of all sex charges) remained proportionately steady as about 17.5% of all charges filed in both years contained an allegation of sex-based harassment. *Quid pro quo* sexual harassment charges also remained proportionately steady at 9.5% of all charges filed in both years.

(The percentage figures in parentheses represent the percent of charges filed containing the particular type of allegation. Many if not most EEOC charges allege more than one form of discrimination/harassment, and/or retaliation).

## **Where will things go from here?**

ADA and PWFA cases will continue to increase. Too often, employers misapply the reasonable accommodation requirements of both statutes. One of the most frequent and lamentable fact patterns we see in these cases is the well-meaning but untrained supervisor who cuts off an employee request for accommodation with, “If I did that for you, I’d have to do it for everyone.”

Notwithstanding this, PWFA claim growth is unlikely to be sustained, as acting EEOC Chair Andrea Lucas will seek to revise the EEOC’s PWFA Rule once an EEOC quorum of Commissioners is established. The Rule change may be helpful to employers, as Acting Chair Lucas voted against the implementation of the final Commission Rule, criticizing not only the political hot button issue of abortion coverage but the regulation’s expansive definition of “pregnancy and related medical conditions.”

There is no such concurrent push to redefine disability under the ADA, or serious health condition under the FMLA, for that matter, and American health demographics all but dictate likely growth of these legal claims. According to the Institute for Health Metrics and Evaluation, a public health research institute of the University of Washington in Seattle, 76% of US adult men and 73% of adult women are overweight or obese. Heart disease is the leading cause of death – 20% of Americans die from it, according to USAFacts Nonpartisan Government Data. 58.7 million adults— 22.8% of the adult population – have a mental illness. Further, Centers for Disease Control and Prevention data shows that 22.2% of adolescents ages 12-19 are obese and 20% of all teenagers by age 17 suffer at least one depressive episode: this is the employer’s workforce of the future. An employer’s need to consider whether a medical issue is covered under the ADA and if so, whether reasonable accommodation is necessary or possible, and to recognize situations where an employee is entitled to FMLA leave will only increase.

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