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Early EEOC Enforcement Trends Under the Second Trump Administration

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Under the second Trump Administration, the U.S. Equal Employment Opportunity Commission's ("EEOC") enforcement priorities have shifted from those of the Biden-Era EEOC. Indeed, the administration has enacted a slew of executive orders and public statements likely impacting the EEOC, including, but not limited to: (1) Executive Order ("EO") 14148: Initial Rescissions of Harmful Executive Orders and Actions, which was critical of certain diversity, equity, and inclusion ("DEI") policies, (2) EO 14151: Ending Radical and Wasteful Government DEI Programs and Preferencing, which sought to defund and terminate certain DEI policies, (3) EO 14168: Defending Women From Gender Ideology Extremism And Restoring Biological Truth To The Federal Government, which recognized only two sexes, defined sex as an "immutable biological classification," and explicitly excluded "gender identity," (4) EO 14173: Ending Illegal Discrimination And Restoring Merit-Based Opportunity, which prohibited promoting diversity and affirmative action, among other things, (5) EO 14188: Additional Measures To Combat Anti-Semitism, and (6) Eradicating Anti-Christian Bias. These EOs, on their own, indicate that the Administration is likely to prioritize prosecution of antisemitism, discrimination against a majority group, and religious discrimination, but not claims raised by transgender or nonbinary workers. Employers should be mindful of the changes in the Administration's priorities, but keep in mind that employees can still prosecute their claims based on any protected characteristic regardless of whether the EEOC steps in.

Additionally, an examination of the cases initiated and withdrawn by the EEOC since President Trump's inauguration also reveals some trends regarding which protected classes' rights the Administration seeks to protect, and which protected classes appear to no longer be a high priority. Employment discrimination cases require aggrieved workers to first file a Charge of Discrimination with the EEOC and/or an equivalent state agency before they can file a lawsuit. In most situations, the EEOC declines to investigate and issues the worker a Notice of Right to Sue, which allows the worker to file a lawsuit on their own. But when the worker's allegations align with the EEOC's priorities, the EEOC investigates the claims and decides to bring a lawsuit on behalf of the worker. Either way, this administrative process can take over a year before a Notice of Right to Sue is issued or the EEOC decides to prosecute, and the fact that a charge is winding its way through the EEOC is usually not public knowledge. It is certainly possible that the EEOC is prioritizing certain

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types of cases, but it will be too early for the public to tell definitively what those priorities are until the EEOC finishes investigating those charges and starts filing more lawsuits.

New Cases Under the Administration

Since the inauguration on January 20, 2025, the EEOC has initiated nine actions—five new lawsuits and four appeals. This low number, compared to the same point of the Trump Administration’s first term where the EEOC filed 24 employment cases, may be due to the administrative exhaustion requirement for employment discrimination cases and cuts by the Department of Government Efficiency (“DOGE”). Each of the five lawsuits initiated post-inauguration involves a different protected class—pregnancy, disability, national origin, gender (sexual harassment), and religious accommodation. The first case alleges pregnancy discrimination and failure to provide pregnancy accommodations under Title VII of the Civil Rights Act of 1964, as amended (“Title VII”), and the Pregnant Workers Fairness Act (“PWFA”), and was filed in Washington, D.C. the day after President Trump’s inauguration.¹ That same week, the EEOC filed a lawsuit in Arizona alleging disability discrimination, failure to provide reasonable accommodation, and other unlawful employment practices under the Americans With Disabilities Act of 1990, as amended (“ADA”).² As will be discussed below, the EEOC settled the disability discrimination case by consent decree just one week after filing suit. Next, the EEOC filed a Title VII national origin discrimination claim in Guam, alleging that non-Japanese workers were treated less favorably than Japanese workers.³ Notably, the EEOC also settled the national origin discrimination case by consent decree within just five days of filing suit. Then, the EEOC filed a Title VII sexual harassment case in Michigan on behalf of aggrieved female Taco Bell employees.⁴ Within the past week, the EEOC

filed a Title VII religious discrimination case on behalf of a Seventh-Day Adventist who was denied religious accommodations to observe the Sabbath.⁵ Of the five lawsuits filed since the inauguration, only the pregnancy, gender (sexual harassment), and religious accommodation cases are still ongoing.

Of the four appeals filed since the inauguration, two are race discrimination cases, and two are disability discrimination cases. Both race discrimination appeals were filed on behalf of African-American workers. In February, the EEOC filed an appeal of a 2023 Title VII race discrimination case on behalf of an African-American worker.⁶ In May, the EEOC filed an appeal of another 2023 Title VII race discrimination case on behalf of an African-American worker who alleged that he was treated less favorably than Hispanic workers.⁷ In April, the EEOC appealed a 2023 ADA disability discrimination case alleging failure to hire an applicant who took opioid medications to treat fibromyalgia and chronic migraines.⁸ That same week, the EEOC appealed a 2017 ADA disability discrimination case on behalf of a worker with Down Syndrome.⁹

Cases Withdrawn By the EEOC

It is relatively early to draw definitive conclusions about EEOC priorities based on the types of cases filed. However, there are some insights that can be drawn about who the EEOC is *not* prioritizing by the types of cases the EEOC has dropped since the inauguration.

Since January 20, 2025, the EEOC has dropped twenty-two cases, the overwhelming majority of which are disability discrimination cases and gender discrimination cases for transgender or nonbinary workers. Fourteen cases have been settled by consent decree, which does not require the accused employer to admit wrongdoing, including the *Leopalace* and *Black Diamond* cases mentioned above. Of the cases settled by consent decree, seven were ADA

¹ *U.S. EEOC v. Security Assurance Management, Inc.*, No. 1:25-cv-181 (D.D.C. Jan. 21, 2025).

² *EEOC v. Black Diamond Blade Co. d/b/a Cutting Edge Supply et al.*, No. 25-cv-242 (D. Ariz. Jan. 27, 2025).

³ *U.S. EEOC v. Leopalace Guam Corp. d/b/a Leopalace Resort*, No. 1:25-cv-4 (D. Guam Feb. 14, 2025).

⁴ *EEOC v. Teamlyders, LLC d/b/a Taco Bell et al.*, No. 25-cv-10575 (E.D. Mich. Feb. 28, 2025).

⁵ *U.S. EEOC v. Marriott Vacations Worldwide Corp. et al.*, No. 6:25-cv-790 (M.D. Fla. May 5, 2025).

⁶ *EEOC v. Sun Chemical Corp.*, No. 4:23-cv-694 (W.D. Mo. 2023), *appeal docketed*, No. 25-1318 (8th Cir. Feb. 14, 2025).

⁷ *EEOC v. Aaron Thomas Co., Inc. et al.*, No. 2:23-cv-2599 (W.D. Tenn. 2023), *appeal docketed*, No. 25-5411 (6th Cir. May 2, 2025).

⁸ *EEOC v. Coviis Services LLC*, 2:23-cv-186 (E.D. Wash. 2023), *appeal docketed*, No. 25-2118 (9th Cir. Apr. 2, 2025).

⁹ *EEOC v. Wal-Mart Stores East LP*, No. 1:17-cv-70 (E.D. Wis. 2017), *appeal docketed*, No. 25-1594 (7th Cir. Apr. 8, 2025).

disability cases.¹⁰ Four of the cases settled by consent decree were Title VII gender discrimination and/or sexual harassment cases.¹¹ The three other cases settled by consent decree were the *Leopalace* national origin (non-Japanese) discrimination case mentioned above, which was settled after just five days, one race (Black) discrimination case, and one religious (Muslim) discrimination case.¹² One ADA disability case was voluntarily dismissed by the EEOC on January 24, 2025, after thirty-five days.¹³

The biggest litigation-based indicator of EEOC priorities came in February 2025, when the EEOC filed a flurry of motions or stipulations to dismiss seven cases, all of which were gender discrimination cases brought last year on behalf of transgender or nonbinary workers. The motions were all filed within a few days of each other, all citing potential inconsistency between continuing to pursue the litigation and President Trump's EO entitled, "Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government," which proclaimed that the federal government only recognizes two genders. EO No. 14,168, 90 Fed. Reg. 8615 (Jan. 20, 2025), and subsequent guidance from the Office of Personnel Management stating that all federal agencies are expected to comply with the mandate. In each case, the

EEOC attorneys requested that any dismissal take effect thirty days after the Court's entry of a Dismissal Order, to give the aggrieved workers time to hire private counsel and move to intervene, if they so chose. This means that the EEOC would be dismissed from the case as a party, and the EEOC counsel would withdraw from the case, but the workers on whose behalf the case was originally filed would take over as plaintiffs. In all seven cases, the aggrieved workers have chosen to file motions to intervene, and all seven cases are ongoing.¹⁴

Conclusion

The EOs, early cases prosecuted by the Administration, and cases from which the EEOC withdrew tend to indicate that the agency is shifting its focus away from transgender or nonbinary workers, and is now focusing on antisemitism, discrimination against a majority group, and religious discrimination. Employers should be mindful of these new priorities as their practices may be more scrutinized if, for example, a Jewish, White, Male, or Christian worker makes a claim. However, employers should be aware that the EEOC's priorities do not prevent employees in other protected groups from submitting complaints or prosecuting their claims. Accordingly, it is important for employers to work with experienced labor and employment counsel to ensure that their policies and practices are current and unlikely to draw scrutiny from regulatory bodies.

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¹⁰ *EEOC v. The Phoenix Center Inc.*, No. 1:23-cv-592 (S.D. Ohio Sept. 19, 2024) (settled Jan. 28, 2025); *EEOC v. New York Beer Project, LLC*, No. 1:24-cv-377 (W.D.N.Y. Apr. 24, 2024) (settled Jan. 29, 2025); *Black Diamond*, No. 25-cv-242 (settled Feb. 3, 2025); *U.S. EEOC v. Alliance Ground Int'l LLC*, No. 1:23-cv-14302 (N.D. Ill. Sept. 29, 2023) (settled Feb. 13, 2025); *EEOC v. Reliable Maintenance Solutions*, No. 2:24-cv-93 (N.D. Ga. May 1, 2024) (settled Feb. 24, 2025); *U.S. EEOC v. The Timken Co. et al.*, No. 1:24-cv-8983 (N.D. Ill. Sept. 26, 2024) (settled Mar. 3, 2025); *EEOC v. C.W., Inc. et al.*, No. 2:24-cv-138 (S.D. Ga. Dec. 9, 2024) (settled Mar. 19, 2025).

¹¹ *U.S. EEOC v. Liberty Events, LLC*, No. 1:20-cv-4631 (E.D.N.Y. Sept. 29, 2020) (settled Jan. 29, 2025); *U.S. EEOC v. AccentCare, Inc.*, No. 3:24-cv-1646 (M.D. Pa. Sept. 27, 2024) (settled Mar. 10, 2025); *EEOC v. Security Engineers, Inc.*, No. 2:33-cv-1213 (N.D. Ala. Sept. 13, 2023) (settled Mar. 10, 2025); *EEOC v. HHS Environmental Services*, No. 2:24-cv-721 (D. Utah Sept. 30, 2024) (settled Mar. 13, 2025).

¹² *Leopalace*, No. 1:25-cv-4 (settled Feb. 19, 2025) (national origin); *EEOC v. DHL Express (USA), Inc.*, No. 1:10-cv-6139 (N.D. Ill. Sept. 24, 2010) (settled Feb. 28, 2025) (race); *U.S. EEOC v. Chipotle Services, LLC*, No. 2:23-cv-2439 (D. Kan. Sept. 27, 2023) (settled Mar. 28, 2025).

¹³ *EEOC v. Value Unlimited, Inc.*, No. 2:24-cv-724 (E.D. Va. Dec. 20, 2024).

¹⁴ *U.S. EEOC v. Sis-Bro Inc.*, No. 3:24-cv-968 (S.D. Ill. Mar. 28, 2024); *Ardis v. Harmony Hospitality LLC (CONSENT)*, No. 1:24-cv-357 (M.D. Ala. Jun. 13, 2024); *EEOC v. Reggio's Pizza, Inc.*, No. 1:24-cv-8910 (N.D. Ill. Sept. 25, 2024); *EEOC v. Boxwood Hotels LLC et al.*, No. 1:24-cv-902 (W.D.N.Y. Sept. 25, 2024); *U.S. EEOC v. Lush Handmade Cosmetics LLC et al.*, No. 5:24-cv-6859 (N.D. Cal. Sept. 30, 2024); *EEOC v. Starboard Group Inc. d/b/a Wendy's et al.*, No. 3:24-cv-2260 (S.D. Ill. Oct. 1, 2024); *Asher Lucas v. Brik Enterprises Inc. et al.*, No. 2:24-cv-12817 (E.D. Mich. Oct. 25, 2024).