Relationship Between EEOC Charges & Unemployment Rate?

## EEOC Charge Statistics

<table>
<thead>
<tr>
<th>Type of Charge</th>
<th># of Charges Filed in 2016</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Retaliation</td>
<td>42,018</td>
<td>45.9%</td>
</tr>
<tr>
<td>Race</td>
<td>32,309</td>
<td>35.3%</td>
</tr>
<tr>
<td>Disability</td>
<td>28,073</td>
<td>30.7%</td>
</tr>
<tr>
<td>Sex</td>
<td>26,934</td>
<td>29.4%</td>
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<tr>
<td>Age</td>
<td>20,857</td>
<td>22.8%</td>
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<tr>
<td>Equal Pay Act</td>
<td>1075</td>
<td>1.2%</td>
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<tr>
<td>Gender Identity/Transgender/Sexual Orientation (2015)</td>
<td>1452</td>
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<tr>
<td>Total Charges Filed</td>
<td>91,503</td>
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Source: [https://www.eeoc.gov/eeoc/statistics/enforcement/charges.cfm](https://www.eeoc.gov/eeoc/statistics/enforcement/charges.cfm)
Plaintiff Recovery Probability in EPL Cases

### EPL Awards Between 2009-2015

<table>
<thead>
<tr>
<th>Award Type</th>
<th>Amount</th>
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<tbody>
<tr>
<td>Median Award</td>
<td>$113,200</td>
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<tr>
<td>Average Award</td>
<td>$397,132</td>
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<tr>
<td>Award Ranges</td>
<td>$1 to $42,700,000</td>
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</tbody>
</table>

These awards do not include plaintiff fees or defense expenses.

Equal Pay Act

• Men and Women in the same workplace must be paid equal wages for equal work.
• Positions must be substantially equal with regard to job content.
• State laws may impose additional obligations on employers.
• In 2014, there was a 21% wage gap between full time male and female workers, per the Institute for Women’s Policy Research.

• At current rate of progression, women will have to wait another 44 years to earn equal pay.

• As women age, the pay gap increases. Per the American Association of University Women, women between 20 and 24 earn 92% of what men earn. By the time women reach 45, they earn approximately 79% of what men earn.

Statistics from: https://www.bustle.com/articles/154135-7-equal-pay-statistics-that-every-woman-should-have-at-the-tip-of-her-tongue-today
Equal Pay Act Settlements

- Dollar General - $18.75M
- City of New York - $76.3M
- New York City - $38M
- Costco - $8M
- Daicchi Sankyo - $8.2M
- Novartis - $8 million
- Publicis Group - $2.87M
- Farmers Insurance - $4.1M
Salary History/Pay Secrecy

• Salary History
  – Philadelphia now prohibits employers from asking candidates about their salary history.
  – Massachusetts passed a similar law last year.

• Pay Secrecy
  – “About half of all workers report that the discussion of wage and salary information is either discouraged or prohibited and/or could lead to punishment.”
  – Section 7 of the National Labor Relations Act protects non-supervisory employees from retaliation when they discuss their wages or working conditions, even if there is no union or organizing effort.

– EEO-1 reports are required annually for employers with 100 or more employees. Employers report job category, gender, race, and ethnicity of their employees.

– Starting 3/31/2018, EEOC will require that employers also report aggregate salary information and hours worked by job category.

– Potential for litigation alleging pay disparity based on gender, race and ethnicity.
## New EEO-1 Form

<table>
<thead>
<tr>
<th>Job Categories</th>
<th>Annual Salary in Thousands</th>
<th>Male</th>
<th>Female</th>
<th>White</th>
<th>Black or African American</th>
<th>Native Hawaiian or Pacific Islander</th>
<th>Asian</th>
<th>Native American or Alaska Native</th>
<th>Two or More Races</th>
<th>Male</th>
<th>Female</th>
<th>White</th>
<th>Black or African American</th>
<th>Native Hawaiian or Pacific Islander</th>
<th>Asian</th>
<th>Native American or Alaska Native</th>
<th>Two or More Races</th>
<th>Total Column A-N</th>
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<tbody>
<tr>
<td>Executive/Senior Level Officers and Managers 1-1</td>
<td>$10,201 and under</td>
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*Professional Liability Underwriting Society*
Compliance Issues

• Establish a plan to collect and report required data
  – W-2 Data
  – Hours Worked
  – Employee Demographics
• Timing
• Pay Equity Audits
Underwriting Considerations

• Claims Experience
• Review EEO-1 report
• Industry
• Location
President Trump

- Affordable Care Act
- Employer Compliance v. Aggressive Enforcement
- EEOC
  - Allocation of Budget dollars towards EEOC Enforcement Efforts
  - Transgender Protections
  - EEO-1 Pay Data Reporting
- DOL
  - Status of New Overtime Wage Rule
  - Independent Contractor v. Employee standard
  - Minimum Wage
- Supreme Court
- Paid Maternity Leave
- Immigration
- Response from States?
EPL Coverage Considerations

- Wage and Hour Coverage
  - Rest and Meal Periods

- Notice Requirement
  - As soon as Practicable

- Duty to Defend v. Modified Duty to Defend v. Reimbursement

- Workplace Violence Expense Reimbursement

- Policy Retention