

Do the Math ... or EEOC Will Do It For You!

Look, I keep warning you about the “new” EEOC and how it’s getting more and more aggressive. It’s keeping more cases, rather than issuing “right to sue” letters. It’s securing more smaller settlements, but in greater volume. And it’s creating more burdensome terms to settle consent decrees and conciliation agreements.

Now, a new court ruling just gave the EEOC even more powerful ammunition to use against your company if it's accused of discrimination ...

Case In Point: Paramount Staffing Inc., an employment agency, placed a number of temp employees in unskilled labor positions at a Technicolor facility in Tennessee. Several black applicants, however, claimed they weren’t being chosen for those positions, and they took their complaint to the EEOC.

The EEOC brought a race discrimination claim on behalf of those black workers. It alleged that Paramount favored placing Hispanic workers over black employees in the facility because of their race and/or national origin.

To prove the claim, the EEOC took the extra step of retaining an economist to conduct a statistical analysis of employment levels at the Technicolor facility. The economist had a Ph.D. and specializes in “econometrics,” the application of statistics to economics. The EEOC also retained a data management expert to conduct an analysis of Spanish surnames at the facility.

Based on the study, the EEOC-commissioned economist concluded there was less than a 1% chance that the unusually high Hispanic employment level could have been by chance alone.

Paramount objected to the use of those experts and asserted their methodology was faulty. But, the court rejected Paramount’s defense. It said a jury will hear all about it when the case and the experts go to trial to prove Paramount engaged in a pattern and practice of favoring Hispanics over African Americans. (*EEOC v. Paramount Staffing Inc.*, 5/17/10)

3 Lessons Learned ... Without Going to Court

- 1. The “new” EEOC is scrappy.** It’s going to give you a good fight. And they just hired more staff.
- 2. The “new” EEOC is strategic.** It wants to win, badly. The courts are letting them use fancy experts against you.
- 3. The ‘new’ EEOC is going to get you.** If your organization is still discriminating in this century, the EEOC will find you, and do everything in its power to make you stop. So, stop now.