EEOC AND LABOR TRAFFICKING

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This is not legal advice. The views expressed are the speaker's and are not binding on the EEOC or Federal Government





Chair:
Janet
Dhillon



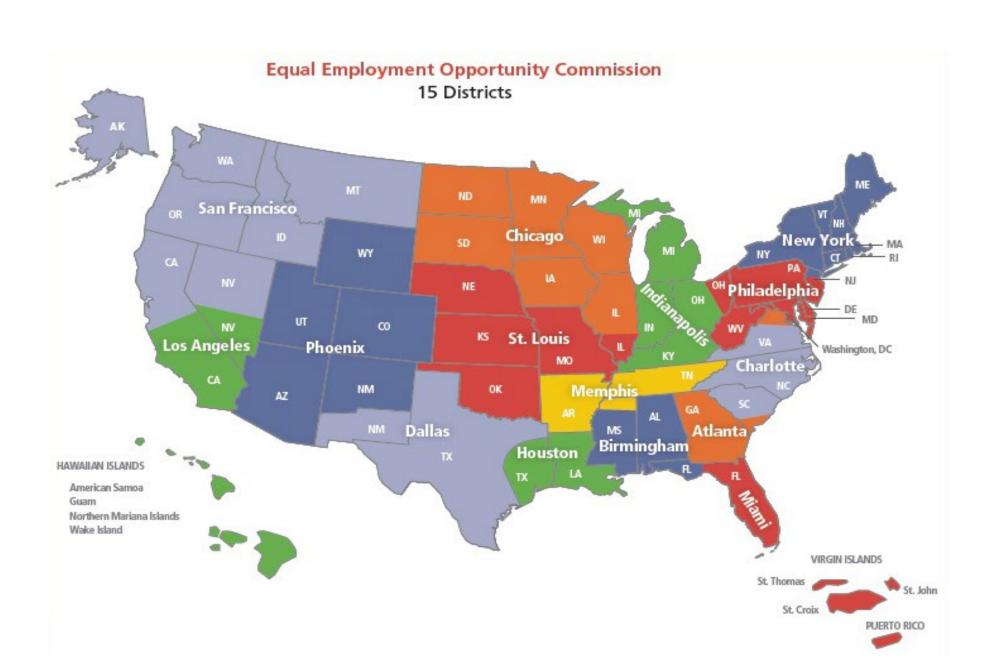
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Laws Enforced by EEOC

- Title VII of the Civil Rights Act of 1964 (Title VII)
- Equal Pay Act of 1963 (EPA)
- Age Discrimination in Employment Act of 1967
- Rehabilitation Act of 1973
- Title I of the Civil Rights Act of 1991
- Americans with Disabilities Act of 1990 (ADA)
- ADA Amendments Act of 2008
- Genetic Information Non-Discrimination Act of 2008 (GINA)

Employment Discrimination: Prohibited Bases











color

disability











religion



national origin



sex





age (40+)

Prohibited Bases	Federal EEO Laws
Race Color Sex Religion National Origin	Title VII of the Civil Rights Act Apply to employers with 15 or more employees.
Sex-Based Wage Discrimination	Equal Pay Act
Age (age 40 and older)	Age Discrimination in Employment Act (ADEA) Apply to employers with 20 or more employees.
Disability (physical or mental)	Americans with Disabilities Act (ADA) Apply to employers with 15 or more employees.
Genetic Information	Genetic Information Non-Discrimination Act (GINA) Apply to employers with 15 or more employees.
Retaliation	All our laws prohibit retaliation

Covered Employers	Protected Individuals
 Private Employers Government Agencies Labor Organizations Employment Agencies/Staffing Cos. Joint Labor-Management Committees controlling apprenticeship and training 	 Employees Job applicants Temporary workers Seasonal workers Part-time workers Former employees Undocumented workers
	EEOC Training InstituteLearn from the Experts



- Under the laws enforced by EEOC, it is illegal to discriminate in any aspect of employment including:
 - Hiring and firing
 - Compensation, assignment or classification
 - Transfer, promotion, layoff or recall
 - Job advertisements and recruitment
 - Promotion and demotion
 - Benefits
 - Pay, retirement plans, disability leave, or
 - Other terms and conditions of employment



- Discriminatory practices under these laws also includes:
 - Harassment on the basis of race, sex, religion, national origin, color, disability, age or genetic information
 - Retaliation against an individual for filing a charge, participating in an investigation or opposing discriminatory practices
 - Also, can't discriminate because of someone's association with someone who is disabled, different race, national origin, religion, ...



Harassment is unwelcome conduct that is based on race, color, religion, sex (including pregnancy), national origin, age (40 or older), disability or genetic information.

Harassment becomes unlawful where:

- I) enduring the offensive conduct becomes a condition of continued employment, or
- 2) the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive.

EEOC Strategic Enforcement Plan

- 1 Eliminating Barriers in Recruitment and Hiring
- 2 Protecting Immigrant, Migrant and Other Vulnerable Workers
- 3 Addressing Emerging and Developing Issues
- 4 Enforcing Equal Pay Laws
- 5 Preserving Access to the Legal System
- 6 Preventing Harassment through Systemic Enforcement and Targeted Outreach

What else to look for? Working Conditions

What different treatment?

- Less pay
- More job duties
- More difficult tasks
- Unrelated tasks
- Unauthorized work
- Not given benefit of the bargain
- Denied pay
- Delayed pay
- Harassment

What else to look for? Living Conditions

Hostile environment of the workplace extends to living conditions

- Housing
- Threats
- Isolation
- Confinement
- Food
- Utilities
- Recruitment fees
- Transportation

Immigrant Issues

- Just as illegal for employers to discriminate against undocumented workers as it is to discriminate against individuals authorized to work.
- Immigration status is not a factor in an EEOC investigation or litigation matter.

EEOC and Trafficking Cases:

- Since passage of Trafficking in Victims Protection Act of 2000 (TVPA), EEOC has taken a pioneering role in human trafficking litigation.
 - > Chellen and EEOC v. John Pickle (filed 2002)
 - >EEOC v. Trans Bay Steel (filed 2006)
 - >EEOC v. Henry's Turkey Service (filed 2011)
 - >EEOC v. Global Horizons, Inc. et al. (filed 2011)
- ➤Other EEOC cases, especially farmworker cases, have elements of trafficking: *EEOC v. Iowa*, *AG*, *LLC and DeCoster Farms of Iowa* (N.D. Iowa)(2002) settled for \$1.525 million for 11 women.

Chellen and EEOC v. John Pickle Co. (N.D. Okla.) (2002)

- ➤52 Indian skilled workers (welders, fitters, electricians, engineers) paid less than min. wage (\$1 \$3.17 hr).
- > Restrained in substandard living conditions. Passports confiscated.
- >Subjected to harsher conditions than non-Indian, U.S. born workers.
- ➤ Claims brought under Title VII and FLSA

Chellen and EEOC v. John Pickle Co. (N.D. Okla.) (2002)

- ➤ Discrimination (disparate treatment)
 - > Wages
 - > Living conditions
 - > Restraints on freedom
 - > Job assignments
- > Harassment (hostile environment)
 - ➤ National origin epithets
 - > Bullying based on cultural characteristics
 - > Fear and intimidation
- Also, claims of race discrimination under Civil Rights Act of 1981, and common law claims of fraud and false imprisonment brought by private plaintiff attorney
- >\$1.3 million court award.

Significance of *John Pickle Co.* case:

- First EEOC case involving human trafficking (civil law). Important because:
 - Civil case: preponderance of the evidence (more likely than not)
 - > Criminal case: proof beyond a reasonable doubt
 - Civil case easier standard to prove
- Court applied Title VII and other civil laws to case of foreign worker exploitation which are typically criminal matters of human trafficking and involuntary servitude.
- Company tried to shortcut immigration laws by use of wrong visas for highly-skilled steel workers. Got B1 "Visitors Visas" for alleged "training" and lied to US Consulates that no work for pay was involved.
- Company profited and displaced its American workers.

EEOC v. Trans Bay Steel, Inc. (C.D. Cal.)(2006)

- ➤ 48 welders brought from Thailand on H-2B visas.
- > Held against will, threatened, passports confiscated, movement restricted.
- Forced to work 14 hour days/6 days a week w/o pay & confined to cramped apartments w/o any electricity, water or gas.
- Escaped and sought help at Thai Temple.
- > U.S. born were not treated the same way.

Settlement of *Trans Bay* case

- >Three year consent decree
- ➤ Recovered over \$1 million for 48 welders
- ➤ Housing stipend
- ➤ Relocation money
- ➤ Training at a local college
- "T" visa certification(s)
- ➤ Guaranteed wages and positions including supervisors for some
- >Monitoring, reporting, training

EEOC v. Hill Country Farms d/b/a Henry's Turkey Services (S.D. Iowa) (2011)

- > Hostile Environment Claims:
 - > abusive and verbal physical harassment
 - harsh punishments
- > Terms and Conditions of Employment:
 - > freedom restricted
 - > substandard living conditions
 - > failure to provide proper health care

Henry's Turkey Services Case:

- ➤ Class of intellectually disabled workers were paid substandard wages as compared to non-disabled workers for the past 35-40 years. (Title VII could retrieve damages back only two years 2007 2009).
- ➤ Jury awarded \$240 million for disability discrimination and harassment. Largest jury award in agency's history.

(E.D. Wash.) and (D. Haw.) (2011)

- Largest human trafficking case brought by EEOC
- EEOC alleged Global Horizon and 6 farms engaged in a pattern and practice of national origin (Thai) and race (Asian) discrimination, harassment and retaliation:
 - ➤ Class of Thai agricultural workers were trafficked to the U.S. under H2-A
 - Thai workers recruited from remote areas and charged huge fees to work on farms in U. S.
 - > Passports confiscated
 - ➤ Movement restricted
 - ➤ Denied pay for their work
 - Deprived of habitable living conditions
 - ➤ Deprived of food

EEOC v. Global Horizons, Inc. et. al.

(E.D. Wash.) and (D. Haw.) (2011)

- Some workers subjected to curfews and lived in isolated and remote areas
- Many claimants received paychecks for \$0 for a week's worth of work
- ➤ Workers threatened with deportation if they complained, and, in fact, some were

EEOC v. Global Horizons, Inc. et. al. (E.D. Wash.) and (D. Haw.) (2011)

2014

The Hawaii district court found Global Horizons liable for pattern or practice of harassing, discriminating, and retaliating against hundreds of Thai workers.

The court, subsequently, entered a default judgment against Global Horizons and Maui Pineapple, finding them jointly liable for \$8.7 million in damages.

EEOC v. Global Horizons, Inc. et. al. (E.D. Wash.) and (D. Haw.) (2011)

2014

Global Horizons/Del Monte Fresh Produce: (D. Haw.) Del Monte agreed to settle claims against it for \$1.2 million and injunctive relief.

2013

EEOC and several farms settled case for \$2.4 million and injunctive relief.

EEOC v. Signal International, LLC (E.D. La.)(2011)

- ➤ Class of almost 500 Indian nationals (H2-B visa) were subjected to hostile work environment, disparate treatment and retaliation based on national origin (Indian), and race (Asian).
- Men recruited to work building and repairing off-shore oil rigs.
- > Required to live in "man camps" isolated from community.
- Required to pay monthly fee for food, accommodation and transportation.
- > Movements and visitors monitored.
- > \$5 million settlement and injunctive relief





JURISDICTION

TIME LIMITS!

➤ 180 days from the date of harm in most cases but can be extended to 300 days. See www.eeoc.gov

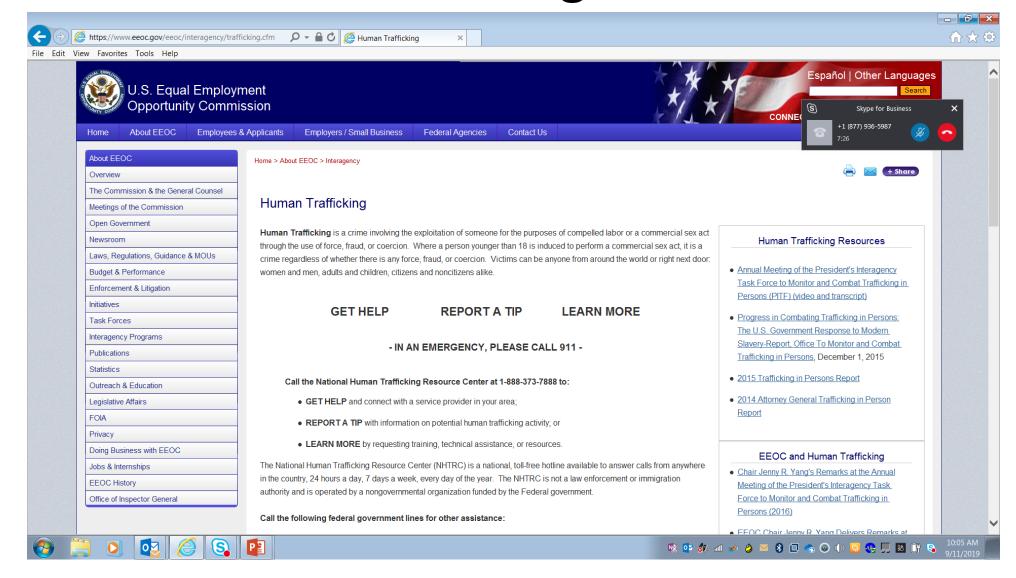
Time Limitations - Generally

- Equal Pay Act-2 or 3 years statute of limitations to file in federal district court (but remember shorter time period for filing a charge with EEOC under Title VII)
- Different time frames/process for federal agency applicants/employees
- 180 days under PA Human Relations Act



- U nonimmigrant status, also known as the U visa, is for victims of a variety of crimes, including domestic violence, sexual assault, human trafficking, involuntary servitude, and other serious offenses.
- This means that EEOC may be able to help workers who are victims of certain crimes apply to remain in the U.S. and continue to work, as long as, they cooperate with law enforcement authorities.

www.eeoc.gov



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Thank you!! For more information visit:

www.eeoc.gov

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