

Hope For Employers: Some Courts Are Requiring The EEOC To Thoroughly Investigate Allegations Before Siding With Employees

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The EEOC, in theory, is supposed to be neutral. It is supposed to collect complaints from individuals who believe that their employers have wronged them, provide the employers with an opportunity to respond, investigate the complaints further if the circumstances warrant it, and provide the parties with an opportunity to conciliate their disputes short of litigation. Many employers feel that the EEOC is hardly neutral, however. They say that, rather than acting as an unbiased third party, the EEOC sees itself as a pro-employee agency and that – in its zeal to do good for employees – the EEOC sometimes manufacture causes of action where no causes of action exist. Employers who feel this way may be interested in a case that was recently heard by the Second Circuit Court of Appeals, *Equal Employment Opportunity Commission v. Sterling Jewelers Inc.*. At the trial court level, the EEOC alleged that Sterling Jewelers – the country's largest specialty jewelry company – pays women less than men. The EEOC brought the case as a nationwide pattern or practice lawsuit purporting to seek relief on behalf of more than 40,000 women *even though* it did not perform a nationwide investigation regarding Sterling's pay practices. Indeed, the 19 charges of discrimination at the heart of the case came from employees working at just eight of Sterling's approximately 1,700 stores. The trial court was unimpressed by the EEOC's efforts, found that the EEOC had not sufficiently investigated the situation to support its claims of a nationwide pattern or practice, and dismissed the case. Employers can take some solace in the trial court's decision. Most of the cases that the EEOC brings on behalf of employees are not nationwide pattern or practice cases, of course. But the case is still noteworthy because it is another in a growing line of cases where courts have required the EEOC to thoroughly investigate allegations before siding with employees. The case now is in the hands of the Second Circuit. We will continue to monitor it and report again once a decision is handed down. In the meantime, please stay tuned to this blog for a discussion on a similar topic in the coming days...

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