

## Don't Mess With Texas...Roadhouse

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Being directly in the cross-hairs of the Equal Opportunity Employment Commission (EEOC) can be a daunting experience for any employer. In response to what it believes to be overreaching litigation tactics by the EEOC, however, Texas Roadhouse is swinging back. According to Texas Roadhouse, the EEOC – on its own accord and without a single complaint from a job applicant or employee – initiated an investigation of the restaurant's hiring practices of "front of the house positions," such as hostesses. The Restaurant asserts that the EEOC solicited plaintiffs and complaints on its website after it filed suit. The Louisville-based Texas Roadhouse also says that the EEOC has disparaged the company by treating allegations as facts in its press releases. For its part, the EEOC claims that data shows that Texas Roadhouse systemically refused to hire individuals over the age of 40 for those front of the house positions, and filed a lawsuit charging the company with age discrimination over three years ago. In the face of what the restaurant has deemed "disturbing" and "unprecedented" conduct on behalf of the agency, Texas Roadhouse has engaged a two-pronged assault: (1) the company has hired a Washington-based lobbying outfit to bend the ear of members of Congress, and (2) the restaurant has filed a lawsuit under the Freedom of Information Act (FOIA) requesting, among other things, information relating to the amount of money the EEOC has spent pursuing this investigation/litigation. It remains to be seen whether this aggressive (and surely not inexpensive) approach by Texas Roadhouse will pay dividends. Reportedly, several members of Congress have written to the EEOC asking them to tone down their public statements regarding the case. As this matter involves several interesting issues – both legal and beyond the walls of any courtroom – we will continue to track the strategy, countermoves and outcomes on either side.

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