

Administrative Charge Team (ACT) Offering

An EEOC charge simply is not what it used to be. It's no secret that the number of charges filed against employers has risen dramatically in the last few years. In fact, in 2011 alone, nearly 100,000 charges were filed with the Equal Employment Opportunity Commission (EEOC), the highest number in EEOC history. Even more chilling, the EEOC recovered a record \$364.6 million through administrative enforcement. As the importance of proactively handling charges continues to increase, I wanted to make sure you are aware that Seyfarth offers a cost effective solution for proactively managing the charge process: the Administrative Charge Team (ACT).

The ACT is an innovative team of highly experienced attorneys dedicated to effectively and efficiently responding to administrative charges nationwide. Directed by Rebecca Bromet (Chicago) and staffed by 11 lawyers nationwide, the ACT is devoted to defending employers against claims of discrimination, harassment, retaliation and other employment-related issues before the EEOC and state fair employment agencies across the country. The ACT uses our vast wealth of experience to spot vulnerabilities and issues that leave employers exposed to increased liability. Through the ACT, Seyfarth offers very competitive flat rates. There is no minimum number of charges you must commit to sending to the ACT in order to take advantage of the ACT's services, and pricing is flexible and can be tailored to your particular needs.

The ACT is available to assist with a variety of demands, including:

The ACT As The Company's Early Warning System:

The EEOC has set its sights squarely on large scale, class-like cases, many of which rapidly grow out of individual charges. In fact, in 2011 the EEOC reported a 24% increase in the number of on-going systemic investigations. Even more disturbing, the EEOC recently trumpeted the increased involvement of its lawyers during the charge investigation stage (often behind the scenes). How your charges are handled at the investigation stage can have a profound impact on future litigation risks. Fortunately for our clients, the ACT's roster of seasoned attorneys serves as a critical lookout for the subtle but tell-tale signs that a case has been targeted for scrutiny by the EEOC. Failing to identify targeted cases early can lead to devastating consequences. The ACT is an

effective early-warning system for these problematic charges. This is not just an add-on offering for the ACT: it is one of the team's key functions.

Thoroughly Investigate Claims of Discrimination:

An effective charge defense starts with the basics. The ACT conducts a prompt and thorough investigation into the allegations of each charge, reviewing all pertinent documentation and interviewing relevant witnesses. Through this investigation, the ACT achieves a detailed understanding of the facts of each case and develops all appropriate defenses to each claim.

Assess the Merits & Evaluate Early Resolution:

Equipped with essential expertise and experience, our ACT attorneys assess the merits of and risks related to each charge. ACT attorneys are committed to staying current on the shifting EEOC and state agency agendas. The Team also

leverages aggregated charge data compared to nationwide agency figures to develop a powerful understanding of agency “hot spots,” from macro geographic trends down to preferences of individual agency investigators. In cases where the risk of potential liability exists, our attorneys partner with clients to develop a strategic charge response and, where appropriate, to explore early resolution and circumvent the traditional investigative process and/or subsequent litigation.

Prepare the Position Statement & Provide Supporting Evidence:

Informed by our deep understanding of agency priorities, the ACT will prepare an effective position statement assembling the evidence necessary to refute the allegations and setting forth the employer’s defenses. ACT attorneys are keenly aware of our clients’ interests as well, and carefully balance defending our client’s decision making with protecting our clients from undue agency scrutiny.

Respond to Requests for Information and Manage Agency Communications:

Faced with increasingly aggressive governmental agendas and sophisticated investigative tactics, the ACT has developed innovative strategies for addressing and limiting wide-ranging agency requests for information. Agencies often use these requests for information to conduct intrusive systemic investigations, which are not necessarily relevant to the underlying charge. Our ACT attorneys are experienced at negotiating with the agencies to keep the proper focus limited to the underlying charge.

Represent Clients in Fact Finding Conferences, Mediations, Conciliations, and Settlement Negotiations:

Our attorneys provide clients with aggressive advocacy at all agency hearings and negotiations, and work with witnesses to prepare for interviews.

Use Charges To Address Workplace Diversity Issues and Prevent Future Claims:

By taking a proactive approach to the charge process and utilizing sophisticated analytic technologies, the ACT is able to identify potentially problematic employer practices or trouble spots and collaborate with clients to formulate preventative strategies to minimize potential future costs and litigation. With their depth and breadth of experience, our ACT attorneys identify employment practice concerns and proactively partner with clients to develop solutions. Critically, the ACT is not a stand alone unit; instead, the ACT supports and partners with Seyfarth’s vast subject matter expert network. In short, clients who choose to use the ACT can rest assured that each charge is the focus of “best in class” legal and strategic analysis.

We are enthusiastic to share more about the ACT with you and hope to reach out to you soon on this unique offering. ■

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