

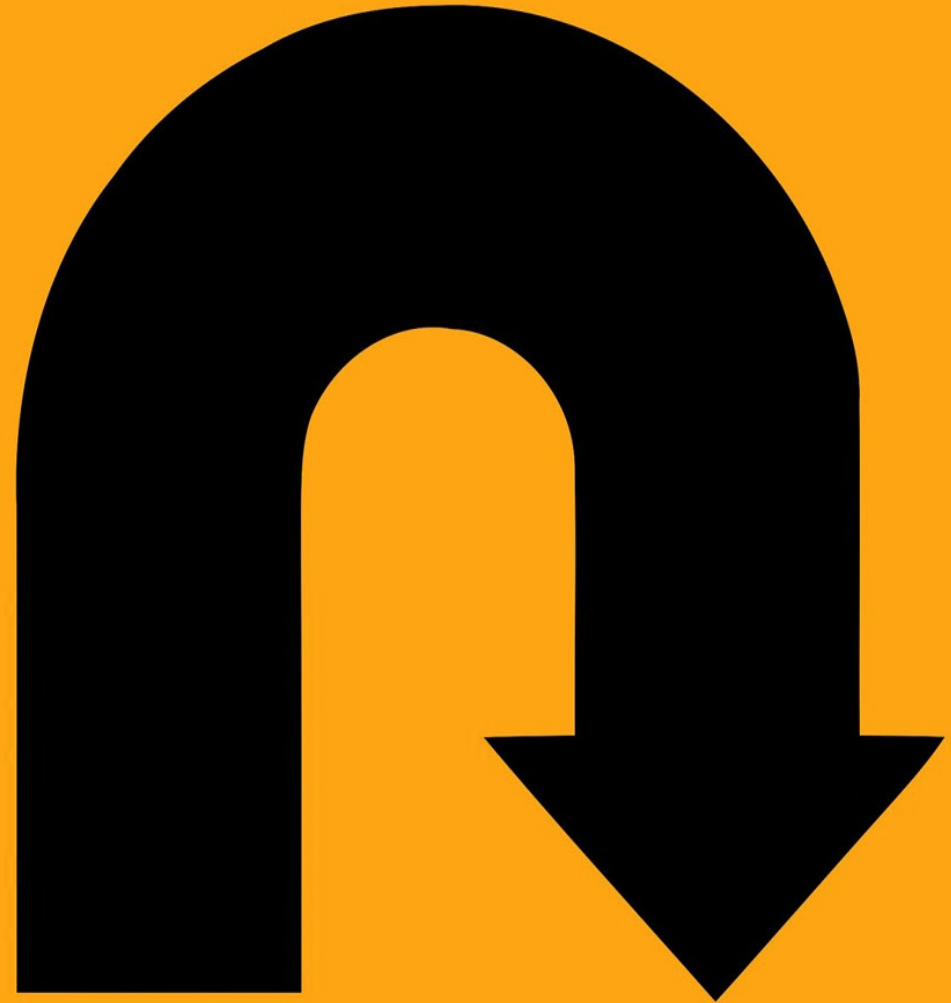


# EEOC's Dramatic Turn: 2026 Enforcement Trends and Employer Exposure

February 2026

**Seyfarth Shaw LLP**

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# Speakers

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**Christopher J. DeGroff**  
Partner |  
Seyfarth Shaw LLP

 Christopher-DeGroff

 @DeGroffChrisJ



**Andrew L. Scroggins**  
Partner |  
Seyfarth Shaw LLP

 Andrew-Scroggins



**Samantha L. Brooks**  
Associate |  
Seyfarth Shaw LLP

 Samantha-L-Brooks



**James P. Nasiri**  
Associate |  
Seyfarth Shaw LLP

 James-Nasiri

# What We Will Cover

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- 01** The EEOC's Lineup
- 02** EEOC Charge Data By The Numbers
- 03** EEOC Litigation By The Numbers
- 04** EEOC Strategic Enforcement Priorities
- 05** EEOC Litigation – Emerging Issues
- 06** Things to Come in 2026

## The EEOC's Lineup

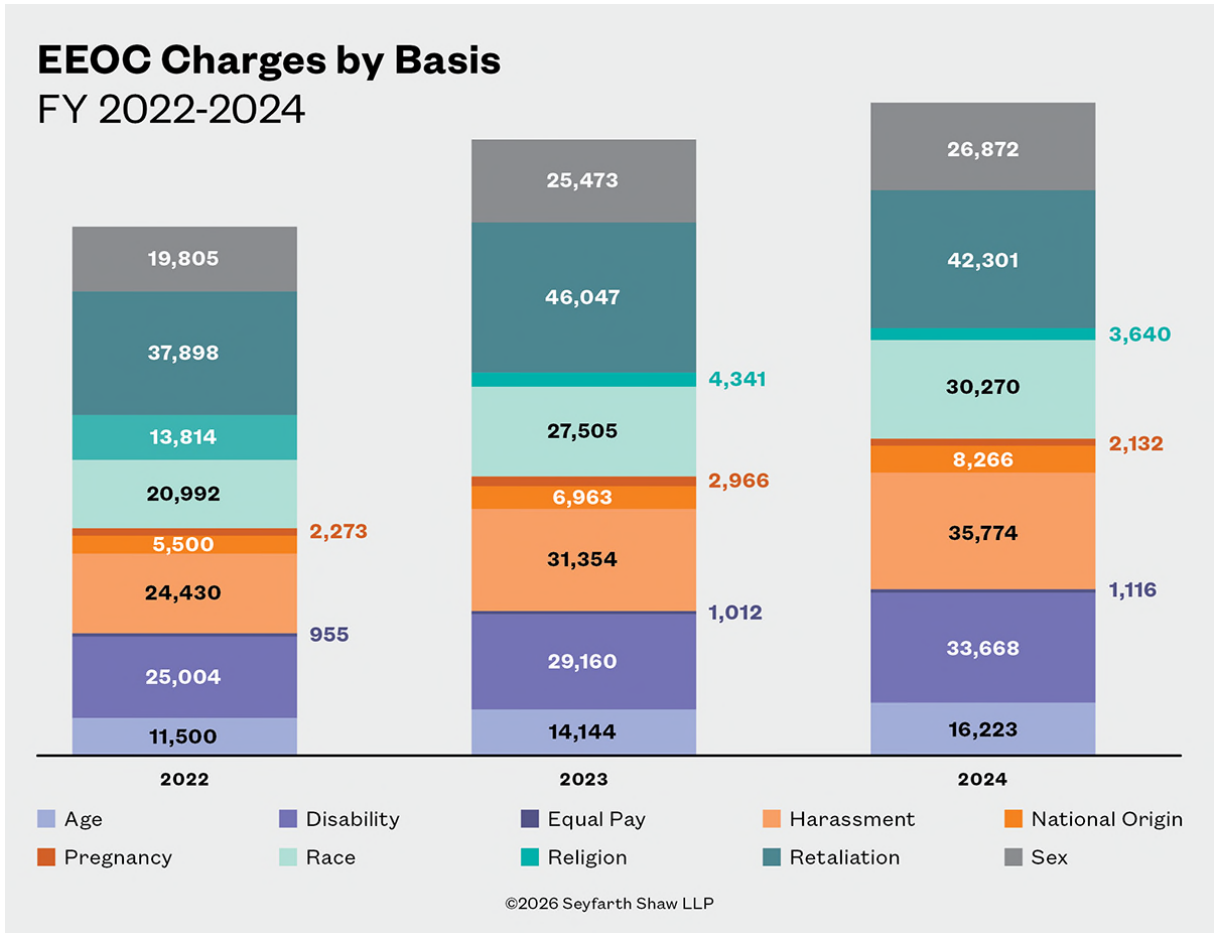
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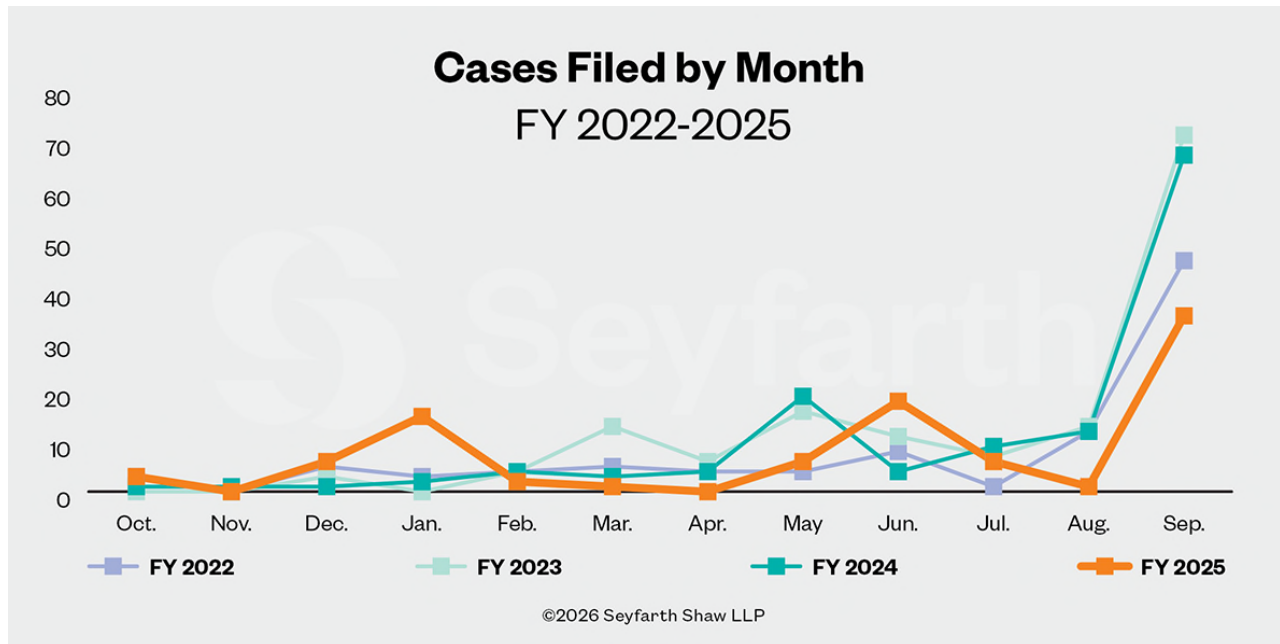
- **Andrea R. Lucas** (Chair)
  - Nominated by President Trump
  - Upon her confirmation, Chair Lucas affirmed her commitment to three priorities:
    - Disavowing DEI;
    - Combating antisemitism; and
    - Restoring equal opportunity for American workers.
- **Kalpana Kotagal** (Commissioner)
  - Nominated by President Biden
- **Brittany Bull Panuccio** (Commissioner)
  - Nominated by President Trump
- **M. Carter Crow** (General Counsel nominee)

# EEOC Charge Data By The Numbers

- Charge data demonstrates *how American workers* feel they are being treated by their employers
- **Retaliation** is consistently the most common allegation in EEOC charges
- EEOC has not reported data since FY 2024



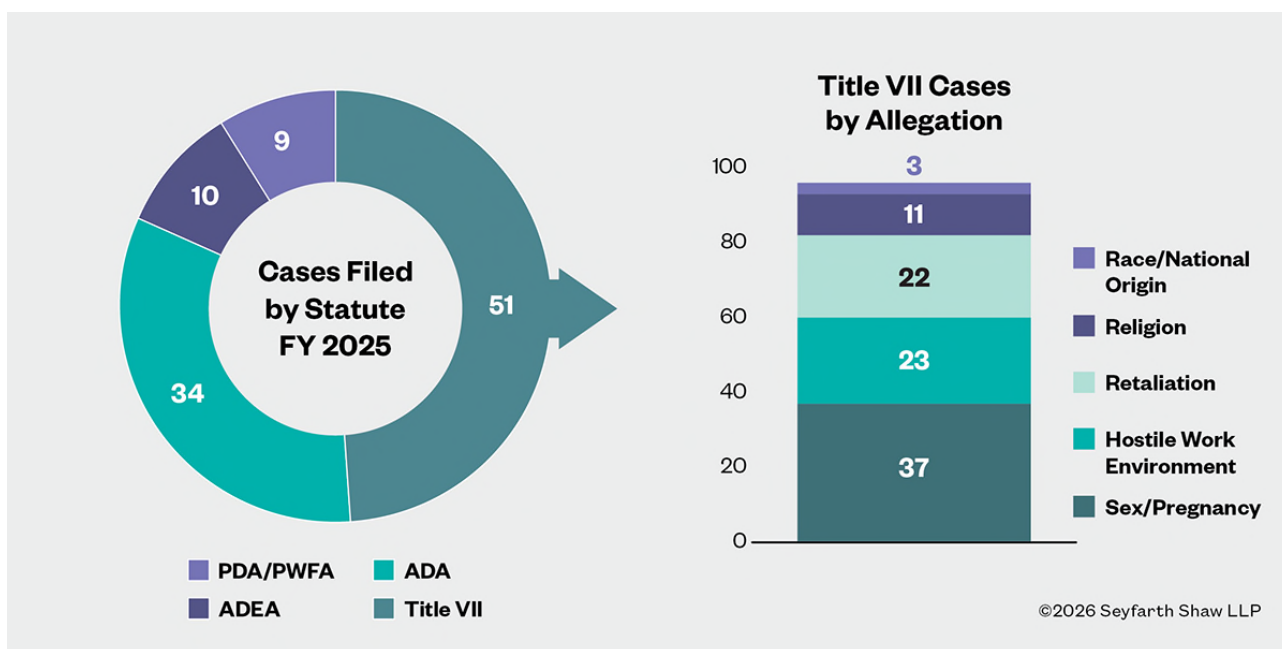
# EEOC Litigation By The Numbers



- Overall merit filing numbers by month
  - Significant drop in filings in FY 2025 compared to FY 2024
- **September** is always a busy time for the EEOC (end of its FY)
  - September 2025 was the busiest month, but still saw the EEOC file just 35 lawsuits, compared to 56 in September 2024

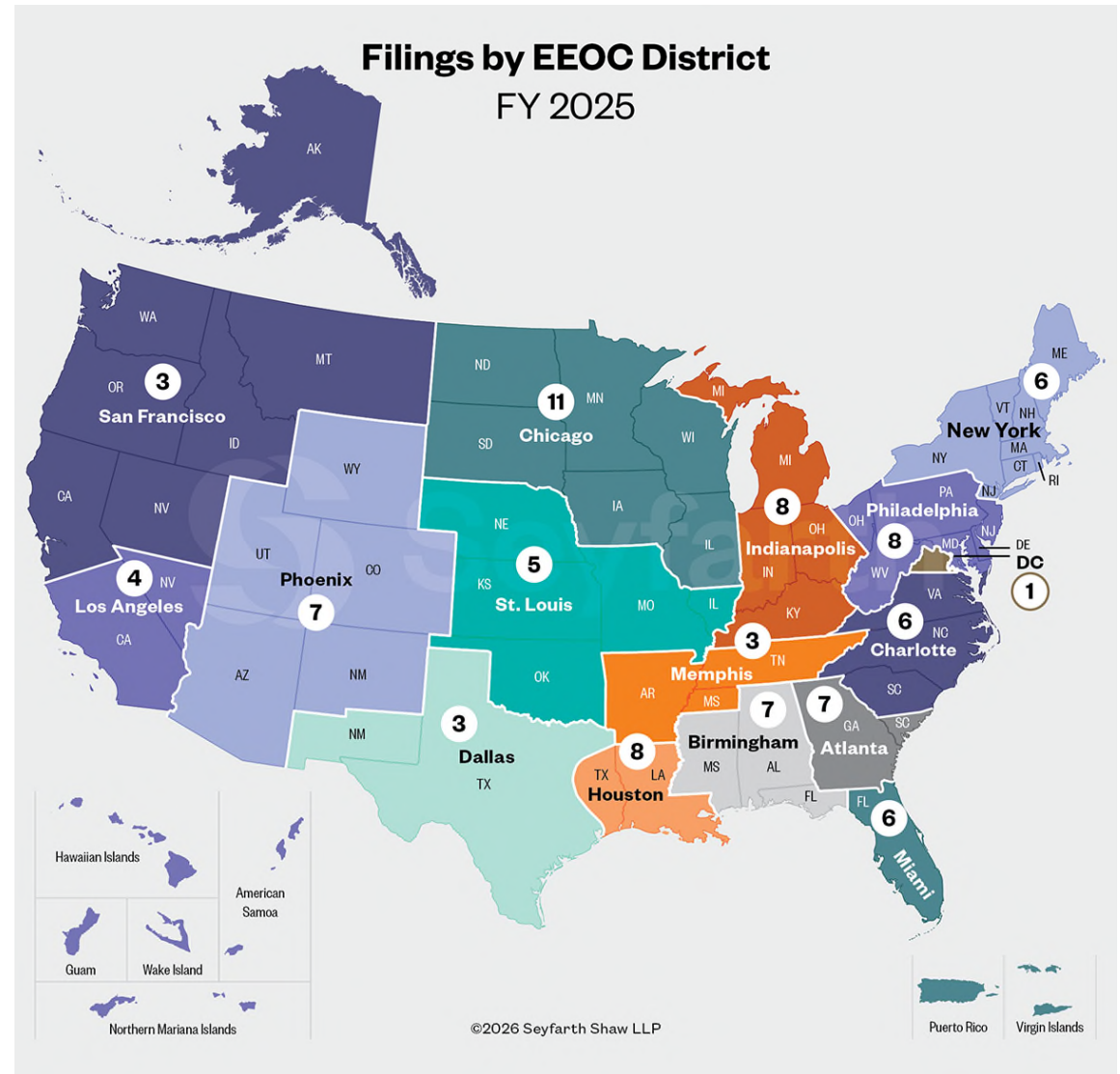
# EEOC Litigation By The Numbers


- Breakdown of claims
- **Title VII** is always the most commonly cited statute, followed by the **ADA**
  - **PDA/PWFA** cases continue to rise since PWFA in 2023.
  - No Equal Pay cases filed in 2025.



# EEOC Litigation By The Numbers

- **Chicago Office** led the way, with 11 filings. A return to its typically-high levels of filing activity.
- The **Philadelphia** and **Indianapolis**, and **Houston Offices** showed a steady uptick with 8 filings each.
- The traditionally busy **Los Angeles**, **New York**, and **San Francisco Offices** saw a noticeably quiet year.





# EEOC Strategic Enforcement Priorities – New SEP for FY 2024-2028

1

**Eliminating Barriers In Recruitment and Hiring:** The EEOC will focus on recruitment and hiring practices and policies that discriminate on any basis unlawful under the statutes EEOC enforces, including sex, race, national origin, color, religion, age, and disability.

2

**Protecting Vulnerable Workers:** The EEOC will focus on harassment, retaliation, job segregation, labor trafficking, discriminatory pay, disparate working conditions, and other policies and practices that impact particularly vulnerable workers and persons from underserved communities.

3

**Addressing Selected Emerging And Developing Issues:** The EEOC will continue to prioritize issues that may be emerging or developing, including issues that involve new or developing legal concepts or topics that are difficult or complex.

4

**Advancing Equal Pay For All Workers:** The EEOC will continue to focus on combatting pay discrimination in all its forms—on the basis of sex under the Equal Pay Act and Title VII, on other protected bases covered by federal anti-discrimination laws, including race, national origin, disability, and age, and at the intersection of protected bases.

5

**Preserving Access to the Legal System:** The EEOC will focus on policies and practices that limit substantive rights, discourage or prohibit individuals from exercising their rights under employment discrimination statutes, or impede the EEOC's investigative or enforcement efforts.

6

**Preventing and Remedying Systemic Harassment:** The EEOC will continue to focus on combatting systemic harassment in all forms and on all bases—including sexual harassment and harassment based on race, disability, age, national origin, religion, color, sex (including pregnancy, gender identity, and sexual orientation) or a combination or intersection of any of these. A claim by an individual or small group may fall within this priority if it is related to a widespread pattern or practice of harassment.

# EEOC Litigation – Emerging Issues

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- **Pregnancy accommodations and PWFA guidelines** – *Position of Acting Chair Lucas Regarding the Commission’s Final Regulations Implementing the Pregnant Workers Fairness Act*
- **Emerging issues: Title VII religious discrimination focus** – *Task Force to Eradicate Anti-Christian Bias in the federal government established under Executive Order No. 14202*
- **National origin discrimination prioritizing Anti-American bias** – *Discrimination Against American Workers Is Against The Law fact sheet*
- **Use of data in employment decisions**
  - Use of artificial intelligence discrimination in hiring – “algorithmic” discrimination
  - Compilation and utilization of employee demographic data in making discrete employment or enterprise-wide decisions

# EEOC Media Machine

- Continued announcements of new litigation, settlements
- Shift in tone and frequency:
  - “Removing Gender Ideology and Restoring the EEOC’s Role of Protecting Women in the Workplace”
  - “EEOC Acting Chair Vows to Protect American Workers from Anti-American Bias”
  - “EEOC Delivers Historic Results for American Workers in First 120 Days”
  - “EEOC Acting Chair Andrea Lucas Sends Letters to 20 Law Firms Requesting Information About DEI-Related Employment Practices”
  - “EEOC and Justice Department Warn Against Unlawful DEI-Related Discrimination”
  - “EEOC Acting Chair Promises to Hold Accountable Universities and Colleges for Antisemitism on Campus Workplaces”
  - “EEOC Commission Votes to Rescind 2024 Harassment Guidance”
- Watch: subpoena enforcement actions



# Things To Come In 2026

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- Chair Lucas' statement to Reuters on December 19, 2025:
  - ***“My goal is to shift to a conservative view of civil rights”***
- Analysis of trends and anticipated litigation focus for the remainder of FY 2026
- Best practices to stay off EEOC's radar
- Risk of Public Disclosure of Investigations
- Subpoena Enforcement



## Anticipated Litigation Areas

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- Challenges to employer **DEI** initiatives
- **Majority-group** discrimination claims, on both individual and class bases
- Retrenchment on **gender identity** Protections
- **Religious-liberty** cases





## CLE: NEW PROCESS

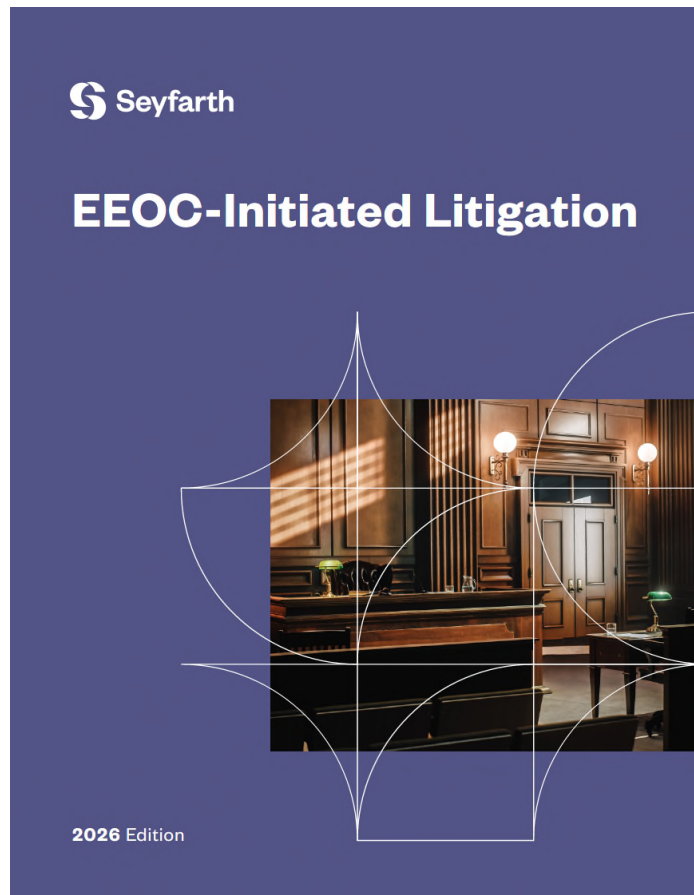
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# About The Book



- Analyzes new lawsuits filed and other enforcement activities initiated in the EEOC's most recent fiscal year
- Analyzes recent court decisions impacting substantive and procedural developments in EEOC-initiated litigation
- Evaluates emerging trends and key developments as the Commission's philosophy continues to evolve
- Distributed to thousands of companies, corporate counsel, and journalists

thank  
you

**contact information**

For more information, please contact:

Chris DeGross

email: [cdegross@seyfarth.com](mailto:cdegross@seyfarth.com)

Andy Scroggins

email: [ascroggins@seyfarth.com](mailto:ascroggins@seyfarth.com)

Samantha L. Brooks

email: [sbrooks@seyfarth.com](mailto:sbrooks@seyfarth.com)

James Nasiri

email: [jnasiri@seyfarth.com](mailto:jnasiri@seyfarth.com)