

**Statement of
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U.S. Equal Employment Opportunity Commission**

**Committee on Health, Education, Labor and Pensions
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Good afternoon Chairman Alexander, Ranking Member Murray, and distinguished Members of the Committee. Thank you for inviting me to testify today on behalf of the Equal Employment Opportunity Commission (“the Commission” or “EEOC”).

I appreciate the opportunity to appear before you to discuss the work and strategic priorities of the agency. It has been a privilege to serve as Chair of the EEOC since September 2014 and as a member of the Commission since May 2013. As you know, the EEOC is a five-member bi-partisan commission responsible for enforcing our nation’s laws against workplace discrimination. As of January, we have had a full complement of commissioners: Commissioners Constance S. Barker, Chai R. Feldblum, Victoria A. Lipnic, and Charlotte A. Burrows. The agency’s General Counsel, P. David Lopez, has authority over the conduct of the agency’s litigation, and I am pleased to be here with him providing testimony today.

I thank the members of this Committee for your support for the agency. Since joining the Commission, and particularly in my role as Chair, I have seen the value of open lines of communication between EEOC and Congress. A steady, two-way flow of information keeps you abreast of the agency’s efforts and objectives, while keeping us aware of matters on the minds of your constituents and ours. Today’s discussion adds to that helpful exchange of information. I look forward to our continued work with this Committee and others in Congress over the course of my tenure.

Over the years, EEOC has made critical progress in advancing equal opportunity for workers, yet we have also faced challenges. The Commission, our General Counsel, and the agency’s more than 2,000 dedicated employees take very seriously our duty to responsibly and efficiently discharge the work Congress has entrusted to us. As such, we are continually developing ways to improve our service to the public. I look forward to highlighting some of those initiatives today.

HISTORIC MILESTONES

This July marks two historic milestones for EEOC. On July 2, we will celebrate EEOC’s 50th anniversary, and on July 26, we will commemorate the 25th anniversary of the Americans with Disabilities Act (ADA). For our agency, these occasions present a time for reflection and recommitment to expanding opportunity in the American workplace.

Title VII of the Civil Rights Act of 1964 (Title VII) created EEOC to enforce protections against employment discrimination on the basis of race, color, national origin, religion, and sex.

We opened our doors on July 2, 1965, a year to the day after the Civil Rights Act was signed. It was projected in our first year that EEOC would receive approximately 2,000 charges of discrimination. In reality, EEOC received nearly 9,000 charges.

In the 50 years since, the agency's responsibilities and workload have expanded exponentially. Today, we receive nearly 10 times as many charges a year as we did in 1965. In addition, Congress has vested EEOC with responsibility to enforce the Equal Pay Act of 1963 (EPA), the Age Discrimination in Employment Act of 1967 (ADEA), Section 501 of the Rehabilitation Act of 1973, Titles I and V of the Americans with Disabilities Act of 1990 (ADA), and Title II of the Genetic Information Nondiscrimination Act of 2008 (GINA).

ENSURING EQUAL OPPORTUNITY IN THE 21ST CENTURY WORKFORCE

The nation has made great strides towards equal employment opportunity for all. Never before in our nation's history has the American workplace been more inclusive than it is today. EEOC has been a critical part of that progress, creating real and meaningful opportunities for people of all backgrounds. Through 53 field offices around the country, we help employees and employers in understanding our civil rights laws. We initiate early and informal resolution of employment disputes and work with employers to improve their policies to prevent discrimination from recurring. We use litigation as a last resort to ensure accountability when violations do occur, and we have done so effectively. EEOC has obtained favorable results in 93 percent of the cases resolved during FY 2014, and over the past five years we have achieved, on average, favorable results in 91 percent of our case resolutions.

Yet, despite significant progress, EEOC's work is unfinished. Notwithstanding the diligent efforts of many employers and the work of EEOC, across the country we continue to see discrimination -- in both overt and subtle forms -- based on race, national origin, sex, religion, age, disability, and genetic information. What's more, individuals who come forward to raise concerns of unequal treatment frequently face retaliation.

Highlighted below are some examples of the ways in which we see discrimination manifest itself today, and the strategies that EEOC is employing to prevent, stop, and remedy discrimination. The ongoing challenge of combating employment discrimination in all its forms is what makes EEOC's work as critical today as it was in 1965.

Fulfilling the Promise of the ADA for People with Disabilities

As we approach the 25th Anniversary of the ADA, today's young people with disabilities, sometimes known as – the “ADA generation” – have increased access to education, employment, and full participation in American society. However, even with notable advancements to make our communities more accessible, much remains to be done to fulfill the promise of the ADA in the workplace. Over the past four years, approximately 35 percent of the suits that EEOC filed on the merits included allegations of discrimination under the ADA. In the last fiscal year alone, 30 percent of all charges of discrimination filed with the EEOC alleged disability discrimination. During that period, EEOC staff worked with more than 4,800 employers to reach voluntary resolutions of ADA charges through settlements and conciliation

agreements, obtaining more than \$95 million for workers with disabilities while helping to establish workplace practices that enable people with disabilities to succeed at work.

EEOC's litigation on behalf of people with disabilities has involved workers in all segments and sectors of the workforce experiencing discrimination ranging from failure to provide reasonable accommodations and asking prohibited disability-related questions of applicants and employees, to refusing to hire qualified applicants based on stereotypes, to discharging qualified workers on the basis of disability. In one striking example from September 2014, the United States Court of Appeals for the Fifth Circuit upheld a jury's liability verdict in *EEOC v. Hill Country Farms, Inc., d/b/a Henry's Turkey's Servs*, a lawsuit filed on behalf of 32 workers with intellectual disabilities. EEOC presented evidence that for years the employer subjected the workers to abusive verbal and physical harassment, restricted their freedom of movement, required them to live in sub-standard conditions, and failed to provide adequate medical care when needed. The agency won the largest verdict in its history on behalf of these workers at \$240 million, although this was later reduced to conform to statutory caps.

In February 2015, the United States District Court for the Eastern District of Michigan, in *EEOC v. P.A.M. Transp., Inc.*, entered a judgment against the employer. EEOC alleged that the employer's medical clearance policy violated the ADA by requiring all drivers to notify the company of any contact with a medical professional, including for a routine physical, and then the company terminated employees based on the overly broad medical inquiries. The judgment required the employer to pay nearly half a million dollars to 12 former truck drivers and a separate judgment entered against the employer required the company to change its medical clearance policy to make medical inquiries of drivers only when they are job-related and consistent with business necessity.

Persistent Race and Ethnicity Discrimination

As we see across the country, discrimination based on race and ethnicity persists in our nation's workplaces. In FY 2014, race discrimination remained the most frequent ground for discrimination alleged under Title VII, comprising 35 percent of charges filed with the EEOC under all the statutes we enforce. Across the country, the agency has resolved race and national origin discrimination charges alleging barriers to equal opportunity, such as hiring discrimination and harassment on the job. During FY 2014, EEOC staff recovered more than \$106 million in administrative resolutions of race and national origin charges -- without litigation. In one notable resolution from FY 2013, EEOC reached a conciliation agreement with an employer that stemmed from a systemic investigation launched after 78 charges were filed with the EEOC. The conciliation agreement provided \$21.3 million to African American workers whom the EEOC found were subjected to racial discrimination.

When litigation has been necessary, we have succeeded in obtaining compensation for victims as well as vital changes to discriminatory practices at issue. For example, just last month, in *EEOC v. Patterson-UTI Drilling Company LLC*, EEOC settled claims of race and national origin discrimination affecting more than 1000 employees. EEOC alleged that since at least 2006, the employer engaged in a nationwide pattern or practice of discrimination on its drilling rigs, including by assigning African-Americans, Native Americans, Hispanics or Latinos, Asian-

Americans, and biracial individuals to the lowest level jobs, failing to train and promote them, disproportionately disciplining and demoting them, and subjecting them to pervasive racial and ethnic slurs, and engaging in retaliation. The employer agreed to pay \$14.5 million, which includes a settlement fund plus benefits obtained in separate conciliation agreements on related charges of discrimination, as well as significant changes to its practices. In September 2014, in *EEOC v. McCormick & Schmick*, EEOC settled a case in which it alleged that a nationwide seafood restaurant refused to hire any African-Americans into positions in which they would interact with the public, known as “front-of-the-house” positions, at its Baltimore restaurants. The consent decree in the case provides approximately \$1.3 million to approximately 200 individuals and requires significant changes in recruitment, hiring, and work assignments to ensure the restaurant’s hiring practices do not discriminate in the future.

Barriers to Equal Employment Opportunity for Women

Women continue to confront multiple barriers in the workplace. Although women now comprise nearly half the workforce, they continue to be overrepresented in low wage jobs. The EEOC has challenged discriminatory hiring practices against women in traditionally male fields such as trucking, mining, construction, and warehouse work. For example, in *EEOC and Clouse v. New Prime, Inc.*, the court ruled that one of the nation’s largest trucking companies engaged in a deliberate pattern or practice of discrimination against female applicants for jobs as drivers by requiring that they be trained *only* by female trainers. Given the very few female trainers, this practice resulted in female trainees waiting extended periods of time -- sometimes as long as 18 months -- for a female driver trainer to become available. As a result most female drivers were denied employment.

Many women also experience a persistent pay gap, even when they work in the same jobs and are equally qualified as men. To assist employers in ensuring equal pay for equal work, last year alone, the EEOC conducted educational and outreach events on equal pay issues that reached nearly 40,000 attendees across the country. Still today, when women become pregnant, they continue to face harassment, demotions, decreased hours, forced leave, and even job loss. In fact, approximately 70 percent of the thousands of pregnancy discrimination charges EEOC receives each year allege women were fired as a result of their pregnancy.

NATIONAL STRATEGIC PRIORITIES AND COMMISSION OVERSIGHT

As we serve the American public and enforce our civil rights laws, EEOC is committed to operating as effectively and strategically as possible. To that end, in February 2012, the Commission approved a Strategic Plan for Fiscal Years 2012 – 2016, designed to coordinate the EEOC’s programs to create sustainable reductions in discriminatory workplace practices. In December 2012, the Commission adopted a Strategic Enforcement Plan, which established the following six national priorities:

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.

Across the agency, we are deploying our resources more strategically to achieve broad and sustained compliance with our anti-discrimination laws. We are further integrating all segments of agency operations and emphasizing effectiveness, efficiency and consistency. We are instituting improved channels of communication across the agency for greater coordination and consistency in private, public, and federal sector enforcement.

Throughout EEOC's history, the agency's success has hinged on carefully balancing national priorities, coordination, and oversight with local awareness, responsiveness, and discretion. With the goal of increasing the efficiency and effectiveness of its enforcement programs, a unanimous Commission delegated litigation authority to the General Counsel in the 1996 National Enforcement Plan. This action freed the Commission to focus on broad policy issues. In the 2012 Strategic Enforcement Plan, on a bi-partisan basis, the Commission reaffirmed that delegation of authority and established quarterly reports and meetings to continually assess the success of delegated authority.

Currently, the Commission must approve decisions to commence or intervene in litigation in significant cases that: (1) require a major expenditure of resources; (2) address a developing area of law; or (3) raise issues of public controversy. In addition, the Commission must review and approve all recommendations for EEOC to participate as amicus curiae. The 2012 Strategic Enforcement Plan also directs that a minimum of one litigation recommendation from each EEOC District Office must be presented for Commission consideration each fiscal year, including litigation recommendations based on the above criteria.

IDENTIFYING COLLABORATIVE SOLUTIONS TO STRENGTHEN AMERICA'S WORKPLACES

For EEOC, this 50th anniversary year offers a vital opportunity to engage all who share the goal of promoting equal employment opportunity in a broader effort to build stronger workplaces that fully utilize the talents and potential of all workers. EEOC is actively partnering with employers and employees alike to identify strategies for widening the doors to equal opportunity for all in the workplace.

We have redoubled our efforts to develop solutions to our most complex problems. With 30 percent of the charges filed in FY 2014 alleging workplace harassment, combating harassment is a high priority. Race is cited most frequently as the basis for harassment allegations followed by disability and gender. In January, the Commission convened a public meeting to hear from experts on [preventing and addressing workplace harassment](#). To develop a comprehensive strategy to address this issue, I asked EEOC Commissioners Victoria A. Lipnic and Chai R. Feldblum to co-chair a Select Task Force on the Study of Harassment in the Workplace. They have invited employers, workers' advocates, academics, and others experienced with harassment issues and will be holding public meetings to identify underlying problems leading to harassment claims and effective strategies for preventing and remedying workplace harassment.

The agency continues to explore solutions to address and overcome entrenched workplace barriers based on race and ethnicity. Last month, the EEOC convened a Commission meeting in Miami, Florida, entitled “EEOC at 50: Confronting Racial and Ethnic Discrimination in the 21st Century Workplace.” A broad range of national and local stakeholders shared their perspectives on ongoing challenges and promising solutions. Witnesses emphasized that despite significant progress in the past 50 years, discrimination against racial and ethnic minorities remains a too-frequent reality in 21st century America. Other witnesses described today’s new barriers to employment and encouraged the EEOC to address those barriers through creative partnerships with employers.

Next month, the Commission will host a public Commission meeting on retaliation in the workplace. Retaliation remains the most frequently alleged basis of discrimination under all the statutes we enforce, comprising 42.8% of all charges filed with the agency in FY 2014. The Commission meeting will address the root causes of retaliation in the workplace and explore strategies for prevention to ensure that individuals are not chilled from reporting violations of the law. As necessary, the agency will continue to challenge retaliatory practices. The agency did so effectively, just last month, when the United States Court of Appeals for the Sixth Circuit upheld a jury verdict in *EEOC v. New Breed Logistics*, finding the employer liable for a supervisor’s sexual harassment of three female employees and retaliation against them by firing them shortly after they complained about the harassment, and retaliation against a male employee who supported the women’s claims. In its ruling, the court provided important clarification on the scope of retaliation protected under Title VII when it found that an employee’s oral complaints to a supervisor to cease harassing conduct constitute protected activity.

In addition, as the nation’s largest employer, the federal government continues to strive to be a model employer. The EEOC strategically partners with other federal agencies to promote workplace policies and practices that remove barriers to equal employment opportunity and foster an inclusive work environment. I am pleased to serve on the Steering Committee for the newly created Government-wide Diversity and Inclusion Council. Along with the Office of Personnel Management, the Department of Labor, the Office of Management and Budget, and the White House, this effort promotes collaboration among federal agencies to develop approaches that achieve model EEO programs and broad inclusion throughout the federal government.

PROVIDING GUIDANCE TO PROMOTE COMPLIANCE

One of the most crucial tools at the Commission’s disposal is providing guidance to help employers and employees, alike, better understand and comply with our anti-discrimination laws.

Notice of Proposed Rulemaking on Wellness Programs

On April 20, 2015, EEOC published in the Federal Register a Notice of Proposed Rulemaking (NPRM) that addresses the ADA’s application to employer wellness programs. As part of this process, we coordinated with the federal agencies that have responsibility for enforcing and implementing the provisions of HIPAA and the ACA related to wellness programs, including the Departments of Labor, Health and Human Services, and Treasury. The

public comment period on the NPRM closes on June 19th, and the Commission looks forward to reviewing these comments as it shapes the final regulation.

The Commission understands the critical need for EEOC guidance concerning employer wellness programs and the interaction of the ADA with the Health Insurance Portability and Accountability Act (HIPAA) and the Affordable Care Act (ACA). We recognize that many employers wish to implement wellness programs in an effort to improve their employees' health and reduce health care costs. We are also mindful that wellness programs must adhere to the ADA's requirement that disability-related inquiries (such as questions on a health risk assessment) or medical examinations (such as blood tests for cholesterol levels) that are part of employee health programs must be "voluntary."

In addition, we anticipate that in the near future, the Commission will also issue amendments to EEOC's regulations implementing Title II of GINA to address employer wellness programs. Our goal is to propose rules that harmonize ADA and GINA requirements with HIPAA and the ACA, as well as to provide certainty to employers about their obligations.

Guidance on Pregnancy Discrimination

In July 2014, the Commission issued a comprehensive update to the agency's pregnancy guidance that covers a range of issues, including the Pregnancy Discrimination Act's (PDA) application to current, past, and potential pregnancy; the application of the PDA to nursing mothers; the prohibition of forced leave policies; and the application of the ADA to pregnancy-related impairments. This was the first update of our pregnancy guidance in over 30 years. The Commission initiated the process of updating the guidance with a Commission meeting in 2012 focused on pregnancy discrimination. Stakeholders at the meeting urged the Commission to update its guidance to reflect developments in the law, including the passage of the ADA Amendments Act in 2008, which expanded protections for those with temporary impairments.

The Supreme Court's recent decision in *Young v. UPS* addresses the PDA and recognizes that the ADA, as amended, provides important protections for employees with pregnancy-related conditions. As a result of this decision, many pregnant women who were previously denied accommodations will now be entitled to receive them. The Commission will be updating its guidance on pregnancy accommodation issues in accordance with the Court's decision.

Guidance on Consideration of Arrest and Conviction Records in Employment Decisions

The EEOC's Enforcement Guidance on the Consideration of Arrest and Conviction Records in Employment Decisions is another example of guidance that is promoting compliance. The Commission approved this updated guidance by a bipartisan vote to clarify how employers can use background checks as part of their selection process. Consistent with longstanding court decisions, the guidance provides that when conducting criminal background checks, employers should not categorically exclude everyone with a criminal record. Rather, they should target criminal background screens to reflect the nature of the crimes, the time elapsed, and the nature of the job and then allow those who are identified as failing the screen an opportunity to correct

errors in the criminal records and submit supplemental information for individualized consideration. A Wall Street Journal article reported that 77.7 million individuals, or nearly one out of every three American adults, have a file in the FBI's master criminal database. *See* <http://www.wsj.com/articles/decadeslong-arrest-wave-vexes-employers-1418438092> (Dec. 12, 2014). EEOC's guidance seeks to ensure that individuals have a chance to be considered for employment where they are qualified to do the job.

An increasing number of businesses have explicitly adopted the principles laid out in the guidance. According to a 2014 survey by screening company EmployeeScreenIQ, 88 percent of the nearly 600 respondents said they had adopted the principles contained in EEOC guidance. Finally, many employers and jurisdictions have adopted what are known as "ban-the-box" policies that delay the consideration of criminal records until later in the employment process -- a policy the EEOC guidance recommends. Indeed, at least 16 states have approved ban-the-box legislation, including Vermont (2015), Virginia (2015), Georgia (2015), Delaware (2014), Nebraska (2014), Illinois (2014 and 2013), New Jersey (2014), California (2013), Maryland (2013), Minnesota (2013), Rhode Island (2013), Colorado (2012), Connecticut (2010), Massachusetts (2010), New Mexico (2010), and Hawaii (1998).

EFFICIENT AND EFFECTIVE ENFORCEMENT TO PROMOTE BROAD COMPLIANCE

The EEOC is ensuring efficient and effective enforcement by using integrated strategies that encourage prompt and voluntary resolution of charges and improve employment policies and practices so that employers can prevent discrimination from occurring. The agency is also investing its resources strategically to address recurring and persistent problems in the workplace in order to remove barriers to opportunity and improve working conditions for a significant number of workers.

Voluntary compliance remains the preferred means of preventing and remedying employment discrimination. Our mediation, settlement and conciliation efforts serve as prime examples of our investment in strategies to resolve workplace disputes early, efficiently, and with lasting impact. In FY 2014, these informal settlement methods secured more than \$296 million in benefits for individuals, without resort to litigation. EEOC's private sector national mediation program serves an integral role in the agency's work. Mediation is a voluntary process where a neutral mediator assists the employer and employee in reaching an early and confidential resolution of the employment dispute raised in a charge of discrimination. This program has consistently achieved outstanding results for participants. In FY 2014, EEOC's mediation program successfully helped employers and employees voluntarily resolve 7,846 (77 percent) of the 10,221 mediations it conducted. Through these mediations, EEOC obtained \$144.6 million in relief for individuals. Moreover, participants nearly uniformly view the mediation program favorably, with over 96 percent reporting confidence in the program this past year.

EEOC's conciliation efforts are another vital means to promote voluntary compliance. Conciliation efforts occur after the agency has completed its investigation of a charge and notified the parties of its determination of reasonable cause to believe that discrimination has occurred. Conciliation is an informal method of resolving a charge of discrimination where the agency endeavors to eliminate unlawful employment practices by working with an employer to

reach a mutually satisfactory resolution before any litigation is filed. EEOC's record demonstrates its commitment to, and success in, resolving charges through conciliation. Over the past three years, EEOC has worked with employers to conciliate and voluntarily resolve a greater percentage of cases than at any time in recent history – with successful conciliations rising from 27 percent in FY 2010 to 38 percent in FY 2014. The success rate for conciliation of systemic charges is even higher - at 47%, which is particularly significant as these charges are more complex and have the potential to improve practices for a significant number of workers.

The Supreme Court's decision in *Mach Mining LLC v. EEOC* ___U.S. ___, 2015 WL 1913911 (2015), provides needed clarity across the courts concerning standards for judicial review of EEOC's conciliation efforts. The standard set forth by the Supreme Court will effectuate the purpose of conciliation, by encouraging all parties to focus on informally resolving the charge. The Commission takes its obligation to conciliate seriously, and we will ensure that additional guidance and training for EEOC staff further advances the agency's effectiveness in our conciliation efforts. The Court's decision will promote a more efficient use of agency, employer, and judicial resources by ensuring the focus of the case is on resolving the merits of the claims of discrimination.

EEOC has a strong incentive to successfully resolve charges through conciliation. Successful conciliations ensure that unlawful employment practices are remedied more quickly, thus conserving agency resources. These conciliation agreements can also help to improve workplace policies and prevent discrimination from occurring in the first instance. Indeed, employers agreed to include changes to workplace policies in nearly 850 conciliation agreements over the last three years.

Through its administrative and legal resolutions, the agency has increased the percentage of agreements with targeted equitable relief to improve workplace practices from 64 percent in FY 2013 to 73 percent in FY 2014. This is especially significant, as it surpassed the goals set out in EEOC's Strategic Plan for targeted equitable relief for FY 2014 (63-67 percent), FY 2015 (64-68 percent), and FY 2016 (65-70 percent). Indeed, EEOC has worked with employers to secure policy changes in 1,724 agreements through all administrative resolutions, including mediations, conciliations, and settlements, and has obtained nonmonetary benefits for nearly 92,000 workers in cases over the past three years. Examples of these changes include adoption of anti-harassment policies, objective promotion policies, and reasonable accommodation policies -- policies that will help prevent discrimination from recurring.

Systemic investigations and cases—those where the practice or policy has a broad effect on an industry, occupation, or geographic area-- are another critical strategy for leveraging the EEOC's resources to most effectively promote compliance and remedy discrimination. In 2005, EEOC established a Systemic Task Force under the leadership of former Commissioner Leslie E. Silverman. Former Chair Cari M. Dominguez charged the Task Force with responsibility for examining the Commission's systemic program and recommending new strategies for combating systemic discrimination. In 2006, a unanimous Commission adopted the recommendations of the Systemic Task Force and established a nationwide systemic program as a top priority of the Commission.

In 2012, the Commission reaffirmed the importance of systemic enforcement in its Strategic Plan and Strategic Enforcement Plan. The Commission has worked to create a structure and strategy to coordinate systemic cases across the country, provide increased headquarters support for the systemic work of the field offices, enhance systemic skills, and provide technology to support the development of systemic cases. We have hired social scientists and labor economists who are located in EEOC's field offices to directly support systemic investigations and analyze workforce data and employment practices. Through these actions and others, EEOC is strengthening its systemic infrastructure to enhance the agency's ability to identify and remedy persistent patterns of discrimination across the workforce.

As a result of these efforts, at the end of FY 2014, 57 out of 228, or 25 percent of the cases on EEOC's litigation docket were systemic. This is the largest proportion of systemic lawsuits on EEOC's docket since tracking began in FY 2006. In FY 2014, the agency continued to achieve a high level of results in its systemic investigations and secured \$13 million in monetary relief. Also, in 2014, EEOC's success rate for conciliation of systemic charges of discrimination was 47 percent. Examples of systemic matters successfully resolved in FY 2014 prior to litigation include:

- The EEOC reached a negotiated settlement agreement with a company to pay \$650,000 to African American and Hispanic individuals the company is alleged to have failed to hire because of their race or national origin. The company also agreed to hire additional workers, bringing the combined value of this relief to over \$4.6 million;
- After finding reasonable cause to believe that a company had a practice of not hiring women for driving positions because of their sex, the EEOC reached a successful conciliation agreement with the employer. The company agreed to pay \$530,000 to women who EEOC alleged were denied hire and also to provide significant targeted equitable relief including the adoption of an effective EEO policy prohibiting discrimination based on sex. The agreement also calls for anti-discrimination training for all human resources employees focused on preventing sex discrimination.
- The EEOC successfully conciliated four systemic ADEA investigations alleging that the employers stopped allowing volunteer firefighters to accrue points for performing certain duties when they reached age 55 or 60. Total monetary benefits of over \$1.4 million were agreed to for these firefighters through the conciliation agreements. The employers also changed their policies to bring them into compliance with the ADEA.

When the EEOC makes a finding that there is reasonable cause to believe that the company has engaged in a pattern or practice of systemic discrimination and efforts to secure voluntary compliance are not successful, the agency may choose to file suit to enforce the law. In FY 2014, the Commission filed 17 systemic lawsuits. These suits challenge a range of alleged systemic barriers, including:

- Refusing to place African American applicants into front-of-the-house restaurant positions;
- Refusing to hire applicants over age 40 for front-of-the-house restaurant positions;

- Inflexible leave and fitness for duty policies that deny reasonable accommodations to employees with disabilities; and
- Widespread harassment based on race, sex and national origin.

Our General Counsel, P. David Lopez will discuss our litigation program in greater detail during his testimony. Briefly, I would like to highlight that when the Commission files suit, our litigation program has been highly successful. EEOC favorably resolved 93 percent of the cases resolved last fiscal year. As a federal agency, we hold ourselves to a high standard. We carefully select the cases that we decide to litigate, and we strive to ensure all our work is pursued with excellence. Where we receive adverse decisions, we communicate lessons learned from significant cases across the agency to ensure that we continually improve our effectiveness and our service to the public.

INVESTING IN OUR INFRASTRUCTURE TO BETTER SERVE THE PUBLIC

One of the agency's greatest responsibilities is to provide timely and responsive service to both employees and employers involved in discrimination disputes. Through investments in staffing, training, and technology we are improving the quality of our customer service.

The EEOC continually strives to ensure that employees and employers resolve discrimination charges as promptly as possible. To do so, the agency must have the staff and resources to deliver a high level of service. Increases in the EEOC's budget in FY 2009 and FY 2010 enabled the agency to hire 164 new investigators and mediators. Together with the training of these new staff and diligent charge management, these efforts generated nearly a 20 percent reduction in the charge workload in FY 2011 and FY 2012 – the first decreases in nearly 10 years.

These gains could not be sustained in FY 2013 due in part to attrition of front-line staff coupled with a hiring freeze and the effects of governmental sequestration when the EEOC had to furlough its entire workforce for five days. The government shutdown in the first quarter of FY 2014 also slowed the replacement of departing staff.

The FY 2014 appropriations, which included a \$20 million increase for EEOC from the sequestration-impacted level FY 2013 budget, allowed the agency to launch a critical mid-year hiring effort in order to rebuild our workforce, particularly those who provide direct services to the public in the 53 field offices and who investigate, mediate, conciliate, and litigate pending discrimination claims. During the third and fourth quarters of FY 2014, EEOC hired approximately 116 investigators and 12 mediators, helping to restore much needed capacity to the front-line staffing levels and rebuild the enforcement capability of the field offices. As these new hires are trained and come on board, we expect to see the benefits of this hiring beginning in the third quarter of FY 2015. In addition, we are working to increase the speed in which we hire front-line staff this year and have approved 105 replacement hires since the beginning of the year. Our Office of the Chief Human Capital Officer is working with hiring managers to make full use of the hiring authorities and flexibilities available to streamline recruitment and selection procedures. We are also devoting additional resources to enable expedited job postings and applicant screenings.

In addition to hiring in FY 2015 and FY 2016, we will continue our focus on identifying creative approaches to addressing the pending workload and utilizing Priority Charge Handling Procedures to produce further reductions in the time frame for completing investigations of charges. In doing so, we will balance our efforts to address the pending workload while maintaining the highest levels of quality in our investigations and conciliations.

EEOC is also investing in systems to better serve the public, by using technology to increase responsiveness to employees and employers and to streamline and automate services to the public. For our private sector enforcement program, EEOC is developing systems that will allow charging parties and employers to check the status of their charge online, to transform the current paper system into a digital charge system, and to provide individuals with online-scheduling options for intake appointments. Earlier this month, we announced that 11 of our offices will begin a pilot program called ACT Digital to digitally transmit documents between the EEOC and employers regarding discrimination charges. This pilot program is an important first step in the EEOC's move toward an online charge system that will streamline the submission of documents and communications for employees and employers. These efforts will improve our responsiveness to the public and efficiently utilize our resources by allowing investigators to spend more time investigating and resolving charges.

In FY 2013, EEOC deployed a Federal Sector equal employment opportunity portal to all federal agencies, to provide electronic submission and collection of Federal Agency Program Reporting workforce data. In FY 2015, EEOC will integrate the Federal Sector hearings and appeals data into the federal portal, which will be combined with complaint data, workforce data, and barrier analysis to build a more complete picture of how agencies are progressing in the development of model EEO programs. These efforts will enable us to provide additional education and guidance focused on pressing issues to assist federal agencies in implementing preventive measures to address workplace conflict. The end result of these efforts will be better customer service and a strengthened and more efficient agency.

MOVING FORWARD

The Commission is working hard every day to fulfill the promise of equal employment opportunity. EEOC requested a budget of \$373.1 million for FY 2016, an increase of \$8.6 million above the FY 2015 enacted level of \$364.5 million. The majority of this requested increase – \$6.2 million is necessary to maintain our current staffing levels, and the remaining \$2.4 million would allow investments in needed technology and fund increased rent and office relocations. These resources will allow EEOC to continue restoring our capacity in mission critical areas, repairing the adverse effects of recent budget cuts, addressing workload concerns, and continuing to implement our Strategic Plan to better serve the public.

Our commitment to fostering a more level playing field in the workplace is unwavering; yet, we know that we cannot do this alone. We are building active, engaged partnerships with employers and employees as well as across the federal government to develop creative solutions to the workplace challenges facing many employers and employees today. I appreciate the

opportunity to share with the Committee the efforts and vision of the EEOC. I look forward to working with you to make this vision a reality, and I thank you again for your continued support.

I look forward to responding to any questions or comments you may have.