

SPECTRUM

Agency Update From The Executive Director

As this article is being written we have recently broken a stretch of six days with 100 degree plus weather. It is now warm and sunny, and cooler temperatures are approaching. It is a reminder that better days are always around the corner.

Meteorologists use barometers to help predict the weather by tracking atmospheric pressure highs and lows. I have often said that the number of complaints filed with the Kansas Human Rights Commission is an accurate barometer of economic conditions, with complaints increasing as the economy declines. Since the "Great Recession" began in September 2008, the Commission has received an increased number of complaint filings.

As reported on page 6, we

received 1,044 complaints in fiscal year 2010, the second consecutive year of complaints receipts exceeding 1,000. The fiscal year 2010 complaint receipt level is 27 percent higher than fiscal year 2007's.

We are pleased to report the agency recovered more than \$1,000,000 on behalf of complainants in fiscal year 2010.

Like many State agencies, we are facing an increased workload just as our funding and our ability to maintain an adequate workforce has declined. According to newspaper articles, \$1 billion was cut from a \$6.4 billion State General Fund budget through a series of five budget cuts and adjustments for fiscal year 2010. Unfortunately, deficit numbers seemed to creep up-



William V. Minner
Executive Director

corner. Those bright spots are, of course, our employees. Staff have assumed additional workload when we were unable to fill vacant positions or, unfortunately, had to reduce our workforce. They are ever mindful that our mission is to eliminate discrimination in the workplace, housing, public accommodations, and in profiling in conjunction with traffic stops.

This edition of the *Spectrum* is a reminder of the relevance and importance of having an independent state agency to protect Kansans' civil rights. In this time of economic turmoil and changes in the civil rights field, the KHRC is needed as much now and in the days to come, as when it was founded.

wards with each new edition of the paper. The Governor and the Legislature had difficult decisions before them: raise revenues, reduce the budget, or a combination thereof.

Even in these times when the budget difficulties seem overwhelming, there are bright spots, just as crocus peaking through the snow remind us that spring is just around the

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Employment Law Seminar Registration

The Kansas Human Rights Commission has commenced registration for the 2010 Employment Law Seminar. The seminar will be a one day event on September 21, 2010, that focuses on employment law, professional responsibility, and human resources practices. The seminar will be held at the Maner Conference Center, Topeka, Kansas.

Due to the past popularity of the seminar, presentations were expanded from eight sessions in recent years to eleven this year.

The sessions will cover timely topics such as a 2010

review and 2011 preview of employment law updates, constructive and wrongful discharges in employment, immigration in employment, three ethics workshops, and three human resources practices breakout sessions.

Carol R. Bonebrake and Stacia Boden will serve as keynote speakers with presentations covering social networking and e-mail policy and legal update, and wage and hour legal issues, respectively.

The seminar was expanded to include three professional responsibility sessions. Featured

speakers include Stan Hazlett, Judge Terry Bullock, and Alan Rupe.

Human resource practice breakout sessions were also added. Topics include unemployment rapid response, managing people in a down economy, and worker's compensation.

The sessions were organized with employment attorneys, human resource professionals, legal assistants, paralegals and others in mind.

Pages 2 and 3 of this newsletter feature the agenda and registration form.

Register online for the KHRC Employment Law Seminar at www.khrc.net

2010 KHRC Employment Law Seminar

September 21, 2010

Maner Conference Center, Topeka

17th and Western (Behind the Capitol Plaza Hotel)

Time	General Employment Law Breakout Sessions	Ethics/Professional Responsibility Breakout Sessions	Human Resources Practices Breakout Sessions
8:00 am - 8:30 am	Registration		
8:30 am - 8:55 am	Welcome and Announcements		
9:00 am -10:00 am	Social Networking and Email: Policy and Legal Update		
Keynote Speaker	Carol R. Bonebrake: Attorney, Law Firm of Carol R. Bonebrake		
10:30 am - 11:30 am Breakout Session #1	Employment Law Update –2010 Review and 2011 Preview Joseph P. Mastrosimone, Chief Legal Counsel, Kansas Human Rights Commission	Responding to an Ethics Complaint Stan Hazlett, Disciplinary Administrator, Kansas Supreme Court	Unemployment Rapid Response Rose Day, Rapid Response Coordinator, Kansas Department of Labor
11:30 am -12:30 pm	Buffet Lunch: Mixed Garden Greens, Seasonal Fruit, Pasta Salad, Rolls & Butter, Chicken Cordon Bleu, Beef Medallions, Chef's Selection of Seasonal Vegetables and Starch, and Dessert Display		
12:30 pm -1:30 pm Breakout Session #2	Constructive & Wrongful Discharges in Employment: A Legal Overview Amanda Vogelsberg, Attorney, Henson, Hutton, Mudrick, & Gragson	Confidentiality & Privilege: Ethical Issues Judge Terry Bullock, Judge Terry L. Bullock Mediation Services	Managing People in a Down Economy: Options for Managing the Budget Kelly Calvert, SPHR Human Resources Director, The World Company
1:45 pm - 2:45 pm Breakout Session #3	Immigration in Employment: A Legal Update Ashley Shaneyfelt, Attorney, Kutak Rock	Look Who's Talking-Communicating With the Opposing Party: Your Ethical Responsibility Alan Rupe, Attorney, Kutak Rock	Worker's Compensation Administration: The HR Process Terry Gray, Director of Personnel, City of Winfield & Kevin Robertson, Thomas McGee L.C.
3:15 pm - 4:15 pm Keynote Speaker	Wage & Hour Legal Issues Stacia Boden, Attorney, Kutak Rock		

KHRC Employment Law Seminar Registration

Name: _____

Organization: _____

Address: _____

City _____ State _____ Zip _____

Phone: _____

E-mail: _____

Professional Background /Check One:

- () Attorney
- () Human Resource Professional
- () Other _____

Please send the registration fee of \$75 to the Kansas Human Rights Commission, 900 SW Jackson, 568-South, Topeka KS 66612-1258. Please contact Beth Montgomery at (785) 296-3206 or (888) 793-6874 with any requests.

The deadline for registration is September 10, 2010. There will be no "day of" registration. There will be no refunds for those unable to attend. Conference materials will be mailed to paid registrants unable to attend.

Seminar Features Expanded Sessions; Registration Deadline Nears

Social Networking and Email: Policy and Legal Update

An interactive presentation, including a PowerPoint presentation and four segments. Segment one will assess your social media IQ. Segment two is designed to lay the foundation for the necessity of sound social media policies. Segment three will discuss the development of policies and staff training. Finally, segment four will include a legal update.

Employment Law Update – 2010 Review and 2011 Preview

An overview of the major labor and employment cases from the Supreme Court's 2010 docket and new laws effective in 2010 and a preview of the Court's 2011 docket. Includes review of the new Genetic Information Nondiscrimination Act (GINA).

Constructive & Wrongful Discharges in Employment: A Legal Overview

Provides general information on employment-at-will in Kansas, types of wrongful discharge claims, and defending a wrongful discharge case, including avoiding claims of constructive discharge. Learn about the most recent cases concerning constructive discharge, breach of the implied employment contract, and retaliatory discharge.

Immigration in Employment: A Legal Update

Includes a step-by-step walk-through of the Form I-9 from hiring to termination, and beyond. In addition to a detailed explanation of the proper timeline and procedures involved in completing an I-9. It will cover sample documents, best practices, common pitfalls and mistakes and rules for correcting errors. The presentation will address the components of a comprehensive corporate compliance program as well as the latest guidance on current issues.

Wage & Hour Legal Issues

Wage and hour legal issues are often confusing and complex. This presentation will cover a variety of wage and hour issues, as governed by the Fair Labor Standards Act (FLSA). Issues to be covered include minimum wage, overtime pay recordkeeping and recent court developments.

Responding to an Ethics Complaint

Reviews the anatomy of a complaint. The session covers all aspects of the lawyer disciplinary system, including the origination of complaints, the investigation of complaints, the review committee, formal hearings, Supreme Court hearing, action after the hearing, reinstatement, and related issues.

Confidentiality & Privilege: Ethical Issues

An in depth look at the Ethics rules relating to confidentiality and the Evidence rules relating to Attorney Privilege and the critical difference between them.

Look Who's Talking-Communicating With the Opposing Party: Your Ethical Responsibility

Communicating with the adverse party is almost always necessary once a legal procedure begins. This presentation offers guidance for doing so ethically under the Kansas Rules of Professional Conduct by providing a brief overview of Rule 4.2 "Communication with Person Represented by Counsel" and issues that arise under the Rule. It considers the implications of Rule 4.2 related to employers communicating with adverse employees who are still employed; with public officials named as adverse parties; and with potential class members in class action lawsuits. Attorneys should be aware of the applications of Rule 4.2 in order to balance adequately representing their client and effectively communicating with the opposing party.

Unemployment Rapid Response

Unemployment is not only a possibility but a reality in today's economy. Learn about the unemployment compensation process. This

presentation covers Kansas Department of Labor unemployment insurance contact information, situations that qualify an individual for unemployment compensation, the amount and term of unemployment compensation, unemployment insurance requirements and issues.

Managing People in a Down Economy: Options for Managing the Budget

There are numerous options to consider when contemplating changes to one of the highest organizational costs: salary. Unlike cutting capital expenses, salary budget changes are ultimately connected to people—a much less predictable resource. How you examine the factors impacting a salary line item in a budget, not only tiptoes through litigation risks, but can make or break such intangibles as "morale" and "company culture". Thinking through the post-decision factors can minimize the negative impact on survivors and sustain employee engagement.

Worker's Compensation Administration: The HR Process

This workshop will be from the practitioner's perspective. Information will be provided regarding supervisory training, communications with the injured employee and treating physicians, as well as the return to work process. Life saving case history return to work success stories will also be reviewed.

Registration is Easy!

- Register online at www.khrc.net,
- Fax the registration to (785) 296-0589, or
- Mail the registration to the Kansas Human Rights, 900 S.W. Jackson, Suite 568S, Topeka, KS 66612.

Register by September 10th!

This conference has been approved for 6.00 credit hours of CLE credit and 3.50 hours of Professional Responsibility hours through the Kansas Continuing Legal Education Commission. 5.00 hours of PHR, SPHR, and GPHR credit by HRCI are pending. Legal assistants can submit for CLAE credit through NALA.



KHRC Legal Update-

Genetic Discrimination: Decoding the New Federal Prohibitions

By Joseph P. Mastrosimone,
KHRC Chief Legal Counsel

The newly effective Genetic Information Non-Discrimination Act of 2008, 42 U.S.C. § 2000ff *et seq.* (“GINA”), prohibits employers with at least fifteen employees from discriminating on the basis of genetic information against employees, former employees, and applicants. This new federal law joins Kansas’ version signed into law in 1999, K.S.A. 44-1009(a)(9) which covers most Kansas employers with at least four employees. With the U.S. Equal Employment Opportunity Commission’s recent conclusion that K.S.A. 44-1009(a)(9) and GINA are in “substantial compliance”, the Kansas Human Rights Commission can investigate alleged violations of both Kansas and federal genetic discrimination laws.

On their face, GINA and KSA 44-1009(a)(9) simply prohibit employers from (i) acquiring genetic information, (ii) using genetic information to make adverse employment decisions, and (iii) storing genetic information without proper confidentiality safeguards. But, as discussed below, these statutes have broad implications for employers and employees beyond simply whether an employer has required employees to submit to a genetic test.

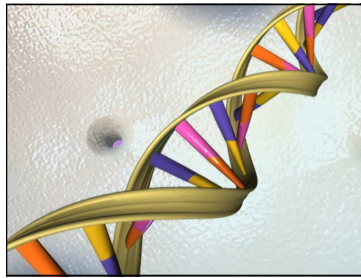
Broad Definition of Genetic Information

GINA defines genetic information in very broad terms. Genetic information not only includes information from ge-

netic tests related to a covered individual or a covered individual’s family member, but includes “the manifestation of a disease or disorder in family members of such individual.” 42 U.S.C. § 2000ff (4). Accordingly, an employee’s or applicant’s family medical history is considered to be genetic information protected from acquisition and use by an employer. The scope of such family medical history extends beyond immediate family members and all the way to fourth-degree relatives of a covered individual. 42 U.S.C. § 2000ff (3).

Independent Acquisition Violations

It is unlawful for employers to “request, require, or purchase genetic information with respect to an employee or a family member of an employee” unless that acquisition or attempted acquisition falls within one of six specific exceptions. 42 U.S.C. § 2000ff-1 (b). This prohibition is very broad and is independent of an employer’s actual use of the information to make an adverse employment decision. An employer’s acquisition of such information would not be unlawful if it was obtained (1) inadvertently, such as through “water cooler” type conversations; (2) as part of a voluntary health program or wellness program so long as certain confidentially require-



ments are met; (3) as part of the certification process for the use of family medical leave to care for a family member with a serious health condition; (4) through commercially or publicly available documents (such as newspapers or website sites) so long as the employer is not intentionally searching for genetic information; (5) as part of a monitoring program to monitor the effects of toxic substances in the workplace under certain conditions; or (6) as part of the quality control process for DNA testing by law enforcement or human remains identification. Both employers and employees should be aware that the six exceptions are read quite narrowly, two examples illustrate that point.

First, take for example situations involving a so-called “sympathetic supervisor.” Such a supervisor asks an employee why they are scheduled to be out of the office later that week and the employee volunteers that she will be taking time off to draw blood for a genetic test. While that would likely be viewed as an acquisition of genetic information it would likely not be viewed as unlawful because it was “inadvertent” because asking an employee why they will be out of the office is not likely to elicit genetic information. 42 U.S.C. § 2000ff-1 (b)(1). However, if that same supervisor then asks a follow-up question about the nature of or need for the test, even if only out of concern for a co-worker, the employer will

likely be found to have violated GINA’s acquisition restrictions because the questions about the test were likely to elicit genetic information about the employee.

Second, take for example the growing trend of employer’s routinely searching the internet for public information about potential hires. Assume that such a general search about an applicant turns up information about the applicant’s advocacy for breast cancer research because her grandmother was stricken by the illness. That information would constitute genetic information about the applicant but its acquisition would likely not be unlawful under 42 U.S.C. § 2000ff-1 (b) (4) because it was inadvertently come across in a public record. However, if the employer then ran a second, more refined search which combined the name of the applicant with additional terms related to the genetic disorder to gather more information, that search, designed specifically to return genetic information, would likely be viewed as unlawful despite the fact that the information was contained in public records.

Use Violations

Even where an employer legally acquires genetic information (either because it was acquired before the effective date of GINA or was acquired under one the six exceptions), an employer is never permitted

**See Genetic Information
on page 5**

Genetic Information (Continued from page 4)

to use that information to make an adverse employment decision. 42 U.S.C. § 2000ff-1 (a). Such “use” of genetic information would constitute an unlawful employment practice, independent of any allegation of the employer’s unlawful acquisition of the information. Unlike acquisition violations, the long-applied burden-shifting analysis would apply when determining whether an employer unlawfully used genetic information. As such, a charging party must present a prima facie case of unlawful use of genetic discrimination by showing (1) that the charging party is covered by the statute and (2) that an adverse employment decision was made, (3) because of the individual’s genetic information. Id. Once a prima facie case is established, an employer must articulate a legitimate, nondiscriminatory, reason for the adverse employment decision. The charging party would then be required to prove that the articulated reasons are a pretext for unlawful genetic discrimi-

nation such as by showing that the reason advanced by the employer is not believable, similarly situated employees were treated differently, evidence of the employer’s concern about genetic information expressed by the employer’s decision makers, or similar treatment of other individuals whose genetic information was known to the employer.

Confidentiality Requirements

Employers who possess genetic information about their employees are required to treat such information as a confidential medical record. 42 U.S.C. § 2000ff-5 (a). Accordingly, such information should be maintained in separate forms and in separate medical files and treated as confidential. The same standards that apply to the confidentiality of information subject to the Americans with Disabilities Act confidentially provisions also apply to the

maintenance of genetic information. Additionally, employers may not disclose genetic information without the written permission of the employee, pursuant to a court order, or to certain health researchers if confidentiality requirements are followed, or as otherwise authorized by federal or state law. 42 U.S.C. § 2000ff-5 (b).

Remedies

The remedies for violations of GINA or KSA 44-1009 (a)(9) are the same that exist under federal or state law. Accordingly, under GINA compensatory and punitive damages under the Civil Rights Act of 1991, back pay, front pay, reinstatement, and attorney’s fees are all available to charging parties alleging GINA violations. 42 U.S.C. § 2000ff-6.

Conclusion

Given the breadth of the

new federal law, its implicit overlap with certain aspects of the ADA, and recent public education efforts, we anticipate that allegations of genetic discrimination will become more common. Kansas employers should be sure to properly train and educate their supervisors on the requirements of the new law to ensure full compliance and to avoid inadvertent violations. Employees should be aware that they have gained significant new protections to ensure that employment decisions are based on legitimate factors – not on their genetic information or family medical history.

As always, the Kansas Human Rights Commission stands ready to enforce equal employment opportunity requirements and seek to eradicate discrimination, in all of its forms. We look forward to working with both employers and employees to ensure the enforcement of these new protections.

Commission Hires New Chief Legal Counsel

Joseph P. Mastrosimone has been hired by the Kansas Human Rights Commission to fill the position of Chief Legal Counsel.

Mastrosimone comes to the agency after serving as an Associate with Stinson Morrison Hecker LLP, in Overland Park, Kansas. In that role he counseled employers on compliance with federal, state, and

local labor laws and regulations. Prior to working in Overland Park, he served as senior counsel to the Chairman of the National Labor Relations Board.

He received his J.D. with Highest Honors from The George Washington University Law School after completing his B.A. in political science at the University of Rochester.

Mastrosimone also serves as an Adjunct Professor at The Kansas University Law School. He currently is teaching a section of the law school’s required “lawyering” class to first year law students.

Mastrosimone lives in Lawrence with his wife and three children.



Joseph P. Mastrosimone
KHRC Chief Legal Counsel

The Spectrum is a publication of the Kansas Human Rights Commission. Free Subscriptions are available. If you would like to be placed on our mailing list, please contact the Topeka office. All comments and suggestions are appreciated. Copies of the Spectrum are available in PDF Format at our website of www.khrc.net. The Spectrum can also be distributed via email in PDF format. If you would like to receive a copy of the Spectrum via e-mail, please contact Ruth Glover

Agency Briefs

Training Updates

EEOC Conference

Orie Kirksey, KHRC Topeka Investigative Administrator and EEOC Liaison, attended the annual EEOC-FEPA (Equal Employment Opportunity Commission-Fair Employment Agency Practices Agency) conference in Philadelphia, Pennsylvania, in June 2010. Besides receiving updates from the EEOC, Ms. Kirksey met Lilly Ledbetter, namesake of The Lilly Ledbetter Fair Pay Act of 2009

Religious

Discrimination Training

KHRC intake staff, investigators, legal staff, and management participated in the EEOC webinar entitled, "Accommodating Religious Expression in the Workplace: It's the Law!" on July 28, 2010.

This webinar explored legal issues surrounding religious diversity in the workplace, and the range of challenging issues that are unique to this area of practice. Legal requirements to accommodate the religious beliefs and practices of employees were reviewed.

Comparing The Numbers....

**Complaints Exceed 1,000 For Second Consecutive Year,
Recoveries Top \$1,000,000,
Kansas Legal Services Makes Significant Contribution**

In fiscal year 2010, the agency received more than 1,000 complaint filings for the second consecutive fiscal year. The 1,044 complaints received were 27 percent higher than the fiscal year 2007 total of 821.

Likewise, the agency experienced an increase in the number of public contacts. Public contacts were 13 percent higher in fiscal year 2010 than in fiscal year 2009.

Recoveries in fiscal year 2010 increased to \$1,035,314. Of this amount, Kansas Legal Services (KLS) made settle-

ments of more than \$620,000 through the KHRC's voluntary mediation program administered by Kansas Legal Services.

Randy Hershey, Director of KLS's Midland Mediation Services, said, "KLS is proud to help parties in discrimination claims come to quicker, meaningful resolution of claims, more enabled to move on with their lives."

Over the last four fiscal years 3,854 total complaints were filed with the agency, while monetary recoveries totaled almost \$2.9 million.

The monetary recoveries total does not include the value of positions or jobs that may have been obtained by the Commission for complainants, nor does it include other non-monetary remedies.

If an individual feels that they have been discriminated against in the areas of employment, public accommodations, housing, or racial and other profiling, they can contact a KHRC intake specialist.

Intake specialists can be reached in the KHRC Topeka office at (785) 296-3206 or 1-888-793-6874.

TOTAL COMPLAINTS FILED FY 2007-FY 2010

FISCAL YEAR	COMPLAINTS
2010	1,044
2009	1,071
2008	918
2007	821
FOUR YEAR TOTAL	3,854

MONETARY RECOVERIES MADE FY 2007-FY 2010

FISCAL YEAR	RECOVERIES
2010	\$1,035,314
2009	\$576,137
2008	\$685,601
2007	\$581,018
FOUR YEAR TOTAL	\$2,878,070

Lewis v. City of Chicago: The Supreme Court Protects the Rights of Disparate-Impact Discrimination Plaintiffs

By Joanna L. Grossman

Excerpted & Condensed from FindLaw.com

In a recent ruling, *Lewis v. City of Chicago*, the Supreme Court unanimously concluded that a group of African-American would-be firefighters had filed a timely charge of race discrimination against the City of Chicago.

The plaintiffs alleged that the cutoff score on a written examination that was used to define the pool of qualified applicants for firefighting positions had a disparate impact on racial minorities — a fact conceded by the City. But the City had successfully argued below that the charge of discrimination was filed too long after the City announced it would exclude applicants on the basis of the test, and thus did not comply with Title VII's short statute of limitations.

The Supreme Court reversed, however, ruling that an employment practice with a disparate impact can be challenged not only when the practice is adopted, but also when it is later applied to fill open slots.

The Facts of the Case: The City of Chicago's Method for Selecting New Firefighters, and Crawford Smith's Legal Challenge

In July 1995, the City of Chicago gave a written examination to 26,000 people who had applied for jobs in the Chicago Fire Department. In January 1996, the City announced the results of the test and issued a press release stating that it would begin using a lottery to fill openings from among those applicants who scored an 89 or above (out of 100) on the exam. It rated those with scores in that range as "well qualified."

In May 1996, the City ran a lottery to select a class of applicants from among the "well-qualified" scorers to advance to the next stage. It did so again in October 1996 and again nine more times during a six-year period. In the final lottery, the City included some applicants who were merely "qualified" because it had used up the entire "well-qualified" pool.

In March 1997, Crawford Smith, an African-American man who had scored in the "qualified" range on the written test, filed a discrimination charge with the EEOC, alleging that the City's reliance on this test produced an illegal disparate impact on black applicants.

Five other qualified applicants filed similar charges, and the EEOC issued all six a "right-to-sue" letter, which paved the way for a lawsuit. In September 1998, the six filed a lawsuit against the City of Chicago alleging disparate-impact discrimination on the basis of race, and the federal district court certified a class action consisting of more than 6,000 African-Americans who had scored between 65 and 88 on the written firefighter examination (earning the "qualified," but not the "well-qualified" designation) and were never hired into the position.

A Question of Timeliness: What Constitutes an "Unlawful Employment Practice"?

After the class was certified in the *Lewis* case, the City filed for summary judgment on the grounds that the plaintiffs had waited too long to file their EEOC charges. Title VII imposes a statute of limitations that is short by comparison to virtually any other — the limitations period is either 180 or 300 days, depending on whether the discrimination occurs in a state with an agency that shares work with the EEOC. For these Illinois firefighters, the limitations period was 300 days.

But what triggers the limitations period? Title VII provides that the 180/300 day period runs from the date of the "unlawful employment practice" being challenged. However, the definition of an "unlawful employment practice" under Title VII has been the subject of several important Supreme Court decisions in the last decade, as well as Congressional legislation.

The Lewis v. Chicago Case: A Clear Case of Disparate-Impact Discrimination, But Was the Claim Timely?

The City of Chicago conceded there that the 89-point cutoff had "a severe disparate impact against African Americans." The question for the Supreme Court, then, was simply whether the City "used" the discriminatory practice only when it first announced the results and created the list of eligible applicants, or whether it "used" that practice each of the eleven times that it drew a new pool of applicants from the list to fill open positions.

This distinction mattered because the initial EEOC charges by Smith and others were filed more than 400 days after the January 1996 announcement by the City that it would begin drawing only from the "well-qualified" list, but within 300 days of the second and later drawings.

The Supreme Court's Unanimous Ruling in Lewis: How the Court's Logic Differed from the Seventh Circuit's

In an opinion written by Justice Scalia, the Court held that each time the City of Chicago selected another class of applicants from those who had tested in the "well-qualified" range, it "used" a practice that produced a disparate impact.

Although Title VII, even as amended in 1991, does not define "employment practice," the Court concluded that it was "clear that the term encompasses the conduct of which petitioners complain: the exclusion of passing applicants who scored below 89 (until the supply of scores 89 or above was exhausted) when selecting those who would advance. The City 'use[d]' that practice in each round of selection."

By so defining the employment practice, the Court preserved the ability of the *Lewis* plaintiffs to sue even if their EEOC charges were filed more than 300 days after the test results were first announced. Each selection round gave rise to a new claim — and triggered another 300-day period.

Thus, the Court concluded, each time the City relied on the cutoff score (which had an admitted disparate impact) to advance a new pool of applicants, it committed a new violation of Title VII that could be challenged within 300 days.

Individuals employed in Kansas have 6 months to file employment complaints with the KHRC, and 300 days to file with the EEOC. The KHRC can assist individuals in filing complaints with the KHRC and/or the EEOC.

**Gov. Parkinson
Signs
Executive Orders
Benefiting
Kansans with
Disabilities**

Citing that individuals with physical, cognitive, and mental disabilities are a significant percentage of the Kansas population, that it is unacceptable for this group to experience disproportionate unemployment, and it is imperative that Kansas government demonstrate leadership in this area, Governor Mark Parkinson issued Executive Order 10-10 on August 26, 2010.

The Executive Order directs all state agency heads to increase coordination and collaboration across state agencies to provide Kansans with disabilities optimum opportunity to be competitively employed in equal numbers to their peers without disabilities and to help Kansans with disabilities meet the human resource needs of Kansas businesses.

In a companion action, Governor Parkinson also issued Executive Order 10-09 on the same date. This Executive Order establishes the Governor's Excellence Awards to be made annually in three categories recognizing individuals or agencies who support persons receiving disability services or who helped shape public policy.

The Secretary of Social and Rehabilitative Services shall receive and organize nominations.

The Governor's office indicates nearly 16 percent of Kansans report having a disability.

***Read the Executive
Orders in full at:
www.governor.ks.gov***

KHRC Commissioners

Lou Ann Thoms

Chair

Real Estate, Topeka

David Hanson

Legal, Topeka

Terry Crowder

Labor, Topeka

Clyde Howard

Vice Chair

At-Large, Manhattan

Anthony Villegas, Sr.

Labor, Kansas City

Jerome Williams

Industry, Wichita

By law, the Commission must represent particular areas of the workforce and community. In addition, no more than four Commissioners may belong to one particular political party. The Governor of the State of Kansas appoints all seven Commissioners to serve the Kansas Human Rights Commission.

KANSAS HUMAN RIGHTS COMMISSION AREA OFFICES

Eternal Vigilance is the Price of Freedom

Main Office, Topeka:

900 SW Jackson, Suite 568-S
Topeka, KS 66612
(785) 296-3206
Fax (785) 296-0589
TTY (785) 296-0245
Toll-Free (888) 793-6874

Wichita Office:

130 S Market, Suite 7050
Wichita, KS 67202
(316) 337-6270
Fax (316) 337-7376

Dodge City Office:

Military Plaza Offices, Suite 220
100 Military Plaza
Dodge City, KS 67801
(620) 225-4804
Fax (620) 225-4986

Independence Office:

200 Arco Place, Suite 311
Independence, KS 67301
(620) 331-7083
Fax (620) 331-7135

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