



November 9, 2020

Submitted via www.regulations.gov

Bernadette B. Wilson
Executive Officer, Executive Secretariat
U.S. Equal Employment Opportunity Commission
131 M Street, NE
Washington, DC 20507.

Re: RIN 3046-AB19, Comments in Response to Proposed Rulemaking re Amending the EEOC's Procedural Rules Governing the Conciliation Process

Dear Ms. Wilson:

The Lawyers' Committee for Civil Rights Under Law (Lawyers' Committee) submits these comments in response to the Equal Employment Opportunity Commission's (EEOC or Commission) Notice of Proposed Rulemaking (NPRM), RIN 3046-AB19, Update of Commissioner's Conciliation Procedures, published in the Federal Register on October 29, 2020, 85 FR 85 FR 64079-64084.¹

The Lawyers' Committee is a nonpartisan, nonprofit organization formed in 1963 at the request of President John F. Kennedy to enlist the private bar's leadership and resources in combating racial discrimination and vindicating the civil rights of African-Americans and other racial minorities. The Lawyers' Committee has long been committed to eliminating systemic discrimination experienced by people of color in the workplace.

We oppose the proposed rule. The proposed rule unjustifiably seeks to overhaul the EEOC's conciliation procedures for the first time in 40 years, without first analyzing the results of its ongoing conciliation pilot. If finalized, the NPRM will impose extensive, burdensome disclosure requirements on the Commission, contrary to Supreme Court precedent granting the EEOC broad latitude when fulfilling its statutory duty to conciliate under Title VII of the Civil Rights Act. The NPRM will also provide employers with new opportunities to evade liability and will frustrate the EEOC's mission and anti-discrimination enforcement efforts, to the detriment of vulnerable workers of color.

¹ Update of Commissioner's Conciliation Procedures (hereinafter "Conciliation NPRM"), 85 Fed. Reg. 64079 (proposed Oct. 9, 2020) (to be codified at 29 CFR 1601 and 29 CFR 1626). <https://www.federalregister.gov/documents/2020/10/09/2020-21550/update-of-commissions-conciliation-procedures>.



As a preliminary matter, the EEOC's decision to pursue rulemaking in the middle of a national pandemic, and to provide only 30 days for public comment instead of the customary 60 days casts doubt on the integrity of the administrative process. The NPRM provides no explanation for why the EEOC needs to depart from the requirements of Executive Order 13563, which provides that the agency "afford the public a meaningful opportunity to comment through the Internet on any proposed regulation, with a comment period that should generally be at least 60 days."² Despite the harm of a truncated comment period on the ability of the EEOC to receive meaningful public comments, the Commission failed to respond to a request by 40 civil and human rights organizations for an extension.³

The proposed rule would require that in every conciliation the Commission provide the following information to the respondent employer:

- (1) a summary of the facts and non-privileged information that the Commission relied on in its reasonable cause finding;
- (2) a summary of the Commission's legal basis for finding reasonable cause, including an explanation as to how the law was applied to the facts, as well as non-privileged information it obtained during the course of the investigation that raised doubt that employment discrimination occurred;
- (3) the criteria the Agency will use to identify victims from the pool of potential class members if the Agency plans to use a claims process;
- (4) the basis for any relief sought, including the calculations underlying the initial conciliation proposal; and
- (5) identification of a systemic, class, or pattern or practice designation.⁴

Employment discrimination continues to be a significant problem throughout the United States. EEOC received 24,000 charges of race-based and 3,415 charges of color-based employment discrimination just last year, collectively comprising 37.7% of all charges.⁵ If implemented, the rule will negatively and substantially impact Black workers and other underrepresented groups who rely on the EEOC for relief by hamstringing the Commission's public interest litigation efforts and diverting the Commission's scarce resources.

² Exec. Order 13563, 76 Fed. Reg. 3821-22 (Jan. 21, 2011).

³ Letter from The Leadership Conference on Civil and Human Rights et al., to Bernadette B. Wilson, Executive Officer, Executive Secretariat, U.S. Equal Employment Opportunity Commission (Oct. 21, 2020), <https://civilrights.org/resource/extension-of-comment-period-for-rin-3046-ab19-update-of-commissions-conciliation-procedures/>.

⁴ Conciliation NPRM at 64081.

⁵ *EEOC Releases Fiscal Year 2019 Enforcement and Litigation Data*, Newsroom, U.S. Equal Employment Opportunity Commission (Jan. 24, 2020), <https://www.eeoc.gov/newsroom/eeoc-releases-fiscal-year-2019-enforcement-and-litigation-data>.



I. The NPRM Undermines Title VII and Supreme Court Precedent by Imposing Unnecessary Pre-suit Conciliation Requirements on EEOC to the Detriment of Workers

a. The NPRM Undermines Title VII and Supreme Court Precedent

Title VII of the Civil Rights Act authorizes EEOC to investigate, conciliate and litigate charges of discrimination without dictating the Commission's precise pre-suit obligations. 42 U.S.C. § 2000-5(b). If the EEOC determines there is reasonable cause that discrimination occurred, the EEOC "shall endeavor to eliminate any such alleged unlawful employment practice by informal methods of conference, conciliation and persuasion." *Id.* If the EEOC is "unable to secure from the respondent a conciliation agreement acceptable to the Commission," the EEOC can proceed with filing a civil action against the employer. 42 U.S.C. § 2000e-5(f)(1).

In recent years, employers have sought to defend against EEOC discrimination lawsuits by challenging the sufficiency of the Agency's pre-suit conciliation efforts before the court reaches the merits of the case.⁶ Past employer challenges arguing that the EEOC failed to conciliate have been successful in delaying litigation, and in some instances having serious cases of discrimination dismissed by courts.⁷ However, in 2015 the Supreme Court in *Mach Mining v. EEOC*, 575 U.S. 480, unanimously rejected employer ancillary litigation delay tactics, and reaffirmed the Commission's broad flexibility in conducting conciliation.

In *Mach Mining*, the Commission alleged that the company had discriminatorily denied mining and coal production positions to dozens of women. The company claimed as a defense that the EEOC had failed to conciliate in good faith prior to filing the lawsuit because it did not fulfill certain procedural steps, including providing "the factual and legal

⁶ See generally Sandra J. Mullings, *The Supreme Court Takes On the EEOC: What's At Stake in Mach Mining*, Lab. Law J. 10447376 (C.C.H), 2014 WL 1044736 (noting that there were "only approximately 100 reported cases deciding challenges to the EEOC's conciliation efforts ... in the more than 40 years since Title VII was amended." However, "more than one third of those cases were decided in 2010 or later.")

⁷ See *EEOC v. Pierce Packing Co.*, 669 F.2d 605, 607 (9th Cir. 1982) (dismissing the EEOC's gender discrimination suit against an employer because the EEOC had failed to satisfy conditions precedent to suit, and awarding employer \$23,007.65 in attorney's fees, plus costs); *EEOC v. Caterpillar, Inc.*, 409 F.3d 831, 833 (7th Cir. 2005) (noting that a court had to accept the EEOC's administrative determination concerning alleged discrimination discovered during its investigation and could not itself review scope of investigation); *EEOC v. Keco Indus., Inc.*, 748 F.2d 1097, 1102 (6th Cir. 1984) (determining after seven years of suit that an employer's inquiry into sufficiency of Commission's investigation was improper).



basis for” all its positions and the calculations underlying its monetary demand. *Id.* at 491. The Court held that Mach Mining’s

proposed code of conduct conflicts with the latitude Title VII gives the Commission to pursue voluntary compliance with the law’s commands. Every aspect of Title VII’s conciliation provision smacks of flexibility. To begin with, the EEOC need only ‘endeavor’ to conciliate a claim, without having to devote a set amount of time or resources to that project. § 2000e-5(b). Further, the attempt need not involve any specific steps or measures; rather, the Commission may use in each case whatever ‘informal’ means of ‘conference, conciliation, and persuasion’ it deems appropriate. *Id.*

By requiring rigid and extensive requirements that the EEOC must comply with in every conciliation, the NPRM is seeking to undo the Supreme Court’s unanimous ruling and the flexibility afforded by Title VII. Under the proposed rule, after the Commission finds reasonable cause, it would be required in *every conciliation* to provide employers with a summary of the facts and non-privileged information that it relied upon for the finding; a summary of the legal basis for the finding, including any information obtained that raised doubt that employment discrimination occurred; the basis for the relief sought; and identification of systemic, class or pattern or practice designation. These obligations far exceed the low threshold mandates of *Mach Mining* which limits judicial review to whether the EEOC, “inform[ed] the employer about the specific discrimination allegation” by “describ[ing] both what the employer has done and which employees (or what class of employees) have suffered as a result” and “engag[ed] the employer in some form of discussion.” *Id.*

b. The Proposed Pre-suit Requirements Will Harm the EEOC and Workers

Under the proposal, EEOC enforcement staff would have to undertake significant additional responsibilities of preparing extensive disclosures for respondent employers, diverting already limited resources from other critical duties, including reviewing and investigating incoming charges and prioritizing systemic enforcement. Requiring unnecessary disclosures also exposes the EEOC to ancillary litigation challenging the sufficiency of the Commission’s pre-suit investigation and conciliation requirements, leading to protracted resolution for workers. Employers would have increased opportunities to evade liability by claiming the Commission failed to satisfy the extensive disclosures required by the proposed rule. In its own brief to the U.S. Court of Appeals for the Seventh Circuit in *Mach Mining*, the EEOC noted that “the conciliation process itself is turning into a form of quasi-litigation where many respondents focus more on setting up a ‘failure to



conciliate' defense rather than attempting to correct the employment practices EEOC found unlawful in its reasonable cause determination."⁸

Forcing the EEOC to expend its limited resources on fighting these legal challenges will decrease efficiency and will "delay and divert EEOC enforcement actions from furthering the purpose behind Title VII – eliminating discrimination in the workplace." *EEOC v. Sterling Jewelers, Inc.*, 801 F.3d 96, 101. Title VII's purpose and the Commission's role in furthering workplace equality continues to be important as ever. Race discrimination still persists in our society, including in workplaces. Black workers comprise 10% of managers compared to 20% for white workers, and constitute only 10% or less of many of the highest paying jobs.⁹ In 2019, Black workers were 13% of the U.S. workforce but "race discrimination against this group account[ed] for 26% of all claims filed with the EEOC and its partner agencies."¹⁰ Racial gaps in wages, education, housing, and investment has cost the U.S. economy approximately \$16 trillion over the last 20 years.¹¹ If the U.S. were to close the racial gap over the next five years, \$5 trillion would be added to the U.S. GDP.¹²

As the federal agency responsible for enforcing Title VII, the EEOC plays a critically important role in rooting out systemic workplace racism, particularly now during a health pandemic when Black workers are facing historically high rates of job displacement. Despite these ongoing racial inequities, the EEOC seeks to require the Commission to make extensive disclosures that force the Commission to reveal its litigation strategy, including the bases for its reasonable cause findings and whether the Commission has classified the case as a systemic, class, or pattern or practice case. The Commission's proposal goes as far as requiring enforcement staff to disclose information from its investigation that raised doubt that the discrimination occurred.¹³ These unilateral disclosure requirements will provide employers with ammunition in litigation to raise extensive affirmative defenses, and probably even more so when the EEOC pursues class action and systemic litigation. They will also discourage employers from settling and instead encourage them to wait until they are

⁸ Brief of the Equal Employment Opportunity Comm'n as Plaintiff-Appellant, 738 F.3d 171 (7th Cir. 2013) (No. 13-2456), *available at* https://www.eeoc.gov/sites/default/files/migrated_files/eeoc/litigation/briefs/machmining2.html.

⁹ *Id.* at 40.

¹⁰ Miryam Jameel and Joe Yerardi, *Workplace discrimination is illegal. But our data shows it's still a huge problem*, Vox.com (Feb. 28, 2019), <https://www.vox.com/policy-and-politics/2019/2/28/18241973/workplace-discrimination-cpi-investigation-eeoc>.

¹¹ *Closing the Racial Inequality Gaps: The Economic Cost of Black Inequality in the U.S.*, Citi GPS: Global Perspectives and Solutions at 3 (Sept. 2020), https://ir.citi.com/NvIUkHPilz14Hwd3oxqZBLMn1_XPqo5FrxsZD0x6hhil84ZxaxEuJUWmak51UHvYk75VKeHCM1%3D.

¹² *Id.*

¹³ Conciliation NPRM at 64081.



sued so that they can challenge the sufficiency of the EEOC's conciliation and investigation requirements.

Indeed, the NPRM would likely result in less public interest litigation being filed by the EEOC, which is instrumental for workers who face enormous hurdles when seeking to vindicate their rights in court as individual plaintiffs. Systemic litigation by the Commission typically secures a combination of monetary, equitable and injunctive relief for workers, and puts employers on notice regarding their anti-discrimination obligations. On its website, the EEOC notes that it "has long recognized that a strong nationwide systemic program is critical to fulfilling its mission of eradicating discrimination in the workplace. For this reason, the systemic program is a top priority of the agency."¹⁴ The EEOC's public interest litigation on behalf of groups of workers is key to developing Title VII case law, achieving systemic reforms and educating employers nationwide on best employment practices.

In recent years after the *Mach Mining* ruling, the EEOC has achieved significant victories for workers of color. In 2019, the EEOC secured over \$346 million for victims of discrimination through "mediation, conciliation, and settlements."¹⁵ Particular examples in prior years also stand out. For example, in May 2017, the EEOC settled with 13 Rosebud Restaurants for \$1.9 million to resolve a race discrimination hiring lawsuit brought on behalf of African-American applicants and employees. *EEOC v. Rosebud Rest.*, No. 1:13-cv-06656 (N.D. Ill. May 30, 2017). And in October of that year, the EEOC announced a \$900,000 settlement with Dillard's resolving a lawsuit alleging that the retail chain failed to promote African Americans on the basis of their race. *EEOC v. Dillard's Inc.*, No. 4:20-cv-01152 (E.D. Ark. Oct. 8, 2020).

Undermining the EEOC's ability to bring public interest litigation will decrease an important avenue for low-income workers who are disproportionately Black and Brown to tackle systemic workplace discrimination. Eighty percent (80%) of low-income individuals cannot afford legal assistance.¹⁶ Low-income people of color are especially likely to represent themselves pro se because they lack financial resources to secure counsel.¹⁷ Between 1998-2017, 19% of employment discrimination cases were litigated pro se.¹⁸

¹⁴ *Systemic Discrimination*, U.S. Equal Employment Opportunity Commission (last accessed Nov. 9, 2020), <https://www.eeoc.gov/systemic-discrimination>.

¹⁵ *Fiscal Year 2019 Annual Performance Report*, U.S. Equal Employment Opportunity Commission (Feb. 10, 2020), <https://www.eeoc.gov/fiscal-year-2019-annual-performance-report>.

¹⁶ Leonard Willis, *Access to Justice: Mitigating the Justice Gap*, American Bar Association (Dec. 3, 2017), <https://www.americanbar.org/groups/litigation/committees/minority-trial-lawyer/practice/2017/access-to-justice-mitigating-justice-gap>.

¹⁷ Mitchell Levy, *Empirical Patterns of Pro Se Litigation in Federal District Courts*, 85 U. Chi. L. Rev. 1819, 1841 (2018).

¹⁸ *Id.*



Even when employees are able to secure “expensive and often elusive legal representation . . . [e]mpirical studies of employment law claims show that plaintiffs have limited success at every level of the process.”¹⁹ This is certainly the case after *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 359-60 (2011), which made it more difficult for workers to succeed in getting class action lawsuits certified by courts. The EEOC, however, is not subject to the same heightened, procedural requirements for class action certification that private employee plaintiffs face.²⁰ Therefore, it is critical that the EEOC continue prioritizing enforcement focused on eradicating systemic racism and discrimination, and that it not weaken this important function by imposing unnecessary pre-suit conciliation requirements.

II. The NPRM Lacks Justification and Suffers from Serious Procedural Issues

In addition to flouting established Supreme Court precedent and congressional intent, the NPRM lacks justification. The NPRM does not take into account results from the EEOC’s six-month pilot conciliation program, which began on May 29th, 2020 and is ongoing.²¹ The pilot program “adds a requirement that conciliation offers be approved by the appropriate level of management before they are shared with respondents.”²² Making changes to the conciliation process without results from the pilot study is a waste of resources and lacks transparency on how the EEOC came to the NPRM’s particular set of solutions. The Commission’s provision of a truncated 30-day comment period for this NPRM, coupled with the issuance of a proposed rule before the completion of the pilot, amounts to a rushed proposal that would adversely impact the ability of working people to be free from discrimination.

Changes to the conciliation process without first analyzing the results of its six-month pilot are a solution in search of a problem. As an initial matter, the EEOC’s own 2019 performance report indicated that 88.6% of “the investigations, conciliations, hearings, and appeals” met “established quality criteria.”²³ The NPRM’s assertions about what the proposed rule would produce are without basis as well. The NPRM assumes that enhanced

¹⁹ Ann C. Hodges, *The Limits of Multiple Rights and Remedies: A Call For Revisiting the Law of the Workplace*, 22 Hofstra Lab. & Emp. L.J. 601, 611 (2005); see also Phyllis Tropper Baumann, *Substance in the Shadow of Procedure: The Integration of Substantive and Procedural Law in Title VII Cases*, 33 B.C. L. Rev. 211, 289 (1992) (“[T]itle VII plaintiffs typically are economically insecure.”).

²⁰ Kristina A. Gregerson, *Review of EEOC Pre-suit Requirements Post-Mach Mining*, 64 Wayne L. Rev. 297, 312 (2018).

²¹ *EEOC Announces Pilot Programs to Increase Voluntary Resolutions*, Newsroom, Equal Employment Opportunity Commission (July 7, 2020), <https://www.eeoc.gov/newsroom/eeoc-announces-pilot-programs-increase-voluntary-resolutions>

²² *Id.*

²³ *Fiscal Year 2019 Annual Performance Report*, *supra* at n.15.



disclosure could lead to settlement of 100 additional cases each year.²⁴ There is no factual support for that assumption. Over the past five years, when *Mach Mining* made clear that judicial review of the conciliation process was limited, successful conciliations increased. More and more employers have opted to use the EEOC conciliation process and the success rates of conciliation have continually increased over the years.²⁵ For example, from 2006-2010, the success rates for conciliation was 29.7% of charges where the EEOC deemed had reasonable cause for discrimination.²⁶ Over the last decade, the EEOC has increased its conciliation success rate to over 40% all such charges,²⁷ and to 64% of systemic charges.²⁸

Furthermore, the EEOC's justification for the proposed changes and its inadequate cost-benefit analysis are almost entirely focused on employers and fail to address the impact on workers. The proposed mandated disclosures, for example, are one-way only—from the Commission to employers, but not to workers. Disclosing the relevant facts and legal reasoning directly to employers but not to workers further exacerbates resource and information asymmetries between employers and workers in employment discrimination matters. EEOC's disclosure of legal strategy to employers during conciliation will also substantially disadvantage workers in any subsequent litigation, many of whom cannot afford legal representation. The EEOC has failed to explain how blanket provisions of information to employers would achieve the goal of preventing discrimination. In fact, the proposed mandatory disclosures could substantially increase the risk of retaliation—already the largest sources of charges filed at the EEOC—and chill potential claimants and witnesses from reporting discrimination.²⁹ Such an outcome is entirely at odds with the EEOC's mission. The EEOC's economic impact analysis also fails to consider the costs to underrepresented workers or the broader economic costs of discrimination, as discussed more fully in Section I (b) above.

The cost-savings analysis, which is perfunctory, is also flawed in its consideration of supposed litigation expense savings for employers. The Rule claims employers will “save resources and money by avoiding litigation” since the EEOC would conciliate cases “more

²⁴ Conciliation NPRM at 64082.

²⁵ *Fiscal Year 2019 Annual Performance Report*, *supra* at n.15.

²⁶ *Transcript of August 18, 2020 Hearing on Notice of Proposed Rulemaking on Conciliation*, U.S. Equal Employment Opportunity Commission (hereinafter “NPRM Hearing Transcript”), <https://www.eeoc.gov/preliminary-transcript-meeting-august-18-2020-discussion-notice-proposed-rulemaking-conciliation>.

²⁷ *All Statutes (Charges filed with EEOC) FY 1997 – FY 2019*, Statistics, U.S. Equal Employment Opportunity Commission (last accessed Nov. 9, 2020), <https://www.eeoc.gov/statistics/all-statutes-charges-filed-eeoc-fy-1997-fy-2019>.

²⁸ [NPRM Hearing Transcript, supra n. 24.](#)

²⁹ *EEOC Releases Fiscal Year 2019 Enforcement and Litigation Data*, U.S. Equal Employment Opportunity Commission (Jan. 24, 2020), <https://www.eeoc.gov/newsroom/eeoc-releases-fiscal-year-2019-enforcement-and-litigation-data>.



successfully.”³⁰ There are no data provided to support this assertion; in fact, the NPRM concedes that it cannot “quantify” the savings that might result.³¹ The dearth of supporting data is explainable by the fact that all available data point to a contrary conclusion. The justification is flawed because its central assumption is that failed conciliation necessarily leads to more litigation. In fact, as acknowledged by the NPRM, EEOC, mindful of its very limited resources, only litigates a select number of cases each year. In 2019, for example, the EEOC brought 157 suits — 11% of all unsuccessful conciliations that year, and 0.22% of all complaints received that year.³² The NPRM then asserts that “it is reasonable to believe that private plaintiffs file lawsuits in at least an additional 40% of cases” to support its conclusion that overall, half of the cases where the EEOC conciliation is unsuccessful end up being litigated.³³ To support this assertion, the EEOC references 42,053 civil rights cases that were filed in federal court from 2019-2020, yet acknowledges that this is an overly inclusive category that not only captures cases filed by the EEOC, but also includes civil rights cases not involving employment discrimination claims.³⁴ As discussed above in Section I(b), private plaintiffs face immense hurdles in filing litigation, including not being able to afford counsel. Therefore, any possible litigation-related savings by employers must account for the *actual* rates of litigation brought by the EEOC and private plaintiffs when conciliation fails. The EEOC’s unsubstantiated rates of litigation by private plaintiffs are simply insufficient to support this NPRM.

Also specious is the NPRM’s claim that the EEOC is not seeking to “provide an additional avenue for litigation by respondents or changing parties.”³⁵ Yet, rather than abating exposure to litigation pursuant to *Mach Mining*, as the NPRM claims, the proposed rule would achieve the direct opposite: exposing the EEOC to challenges for failures to comply with its own regulations. In the years since *Mach Mining*, it appears that employer challenges to the EEOC’s conciliation process have been less successful. Based on our preliminary analysis, the EEOC has filed approximately 700 lawsuits in the years after *Mach Mining*—*i.e.*, between 2016 and 2019.³⁶ In the instances where courts have entertained

³⁰ Conciliation NPRM 64081.

³¹ Conciliation NPRM at 64081.

³² *EEOC Litigation Statistics, FY 1997 through FY 2019*, Statistics, U.S. Equal Employment Opportunity Commission (last accessed Nov. 9, 2020), <https://www.eeoc.gov/statistics/eeoc-litigation-statistics-fy-1997-through-fy-2019>.

³³ Conciliation NPRM at 64082.

³⁴ Conciliation NPRM at 64082 n.20.

³⁵ Conciliation NPRM at 64080.

³⁶ *EEOC Litigation Statistics, FY 1997 through FY 2019*, Statistics, U.S. Equal Employment Opportunity Commission (last accessed Nov. 9, 2020), <https://www.eeoc.gov/statistics/eeoc-litigation-statistics-fy-1997-through-fy-2019>.



challenges to the EEOC conciliation process under *Mach Mining*, many have held in favor of the EEOC citing *Mach Mining's* holding that the EEOC is entitled to "wide latitude."³⁷

Finally, the NPRM fails to consider the potential increased costs to the Commission resulting from having to comply with new disclosure requirements and defending against resulting ancillary litigation. Even without enhanced disclosures, EEOC is already so backlogged and underresourced that employees often wait for months before conciliation, with the current approximate wait time for an EEOC investigation being approximately 10 months.³⁸ In 2019, *Vox* and the Center for Public Integrity reported the Commission had a smaller budget than it did in 1980 (adjusted for inflation) and 42% less staff, while the country's workforce had increased about 50% to 160 million employees.³⁹

III. Conclusion

The Lawyers' Committee strongly opposes the NPRM because it would harm Black employees and other employees of color who experience persistent and ongoing discrimination in the workplace. Conciliation is merely one means to ending workplace discrimination. Paralyzing the Commission's conciliation process with burdensome requirements that greatly favor employers is unnecessary and contradictory to the EEOC's mission, despite the NPRM's claim otherwise. We urge the EEOC to withdraw the NPRM, to complete and analyze the results of its pilot and to preserve the EEOC's flexibility in conducting conciliation and combating workplace discrimination.

Sincerely,

/s/ Dariely Rodriguez
Director, Economic Justice Project

³⁷ *E.g.*, *U.S. Equal Employment Opportunity Comm'n v. MJC, Inc.*, 400 F. Supp. 3d 1023, 1042 (D. Haw. 2019); *U.S. Equal Employment Opportunity Comm'n v. MVM, Inc.*, No. CV TDC-17-2881, 2018 WL 1882715, at *5 (D. Md. Apr. 19, 2018).

³⁸ *What You Can Expect After You File a Charge*, U.S. Equal Employment Opportunity Commission (last accessed Nov. 9, 2020), <https://www.eeoc.gov/what-you-can-expect-after-you-file-charge>.

³⁹ Jameel and Yerardi, *supra* n.10.