

1996 DISCRIMINATION COMPLAINT REPORT (LABOR CODE §98.75)

Labor Code §98.7 which became effective January 1986, establishes the authority of the Labor Commissioner in the investigation, processing and resolution of employee complaints for discrimination arising under various sections of the Labor Code. The procedures established pursuant to Labor Code §98.7 entail an investigation and/or the convening of an investigative hearing after the filing of a complaint alleging discrimination in employment by an employee. In the event that the Labor Commissioner determines that a violation has occurred, the statute authorizes the Labor Commissioner to direct the violator to cease and desist from the violation and to take such action as is deemed necessary to remedy the violation including, where appropriate, reinstatement of the aggrieved employee, reimbursement of lost wages and/or payment of reasonable attorney's fees associated with any investigative hearing by the Labor Commissioner.

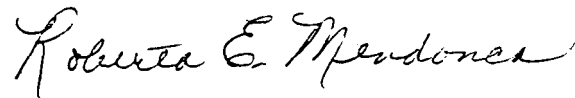
The following data is submitted in accordance with Labor Code §98.75:

Exhibit "A" shows the number of complaints filed or opened under the various Labor Code Sections in 1996. The Division recorded a total of 691 cases filed in 1996. More than one third of all cases opened during the year were complaints filed pursuant to Labor Code Section 98.6, which prohibits retaliation or discrimination in the workplace as a result of filing or intent to file a claim with the Labor Commissioner. These claims numbered 244. The second largest group of complaints were those which arose as a result of employees alleging discrimination in the workplace due to sexual orientation, which comprised 25% of total complaints filed. The third largest group of discrimination complaints filed arose from health and safety issues in the workplace. These complaints, numbering 102, involved employees who claimed discrimination due to reporting safety and health violations on the job.

Exhibit "B" shows the disposition of the various discrimination cases that were processed in 1996. The Division issued determinations in 53 cases, finding for the complainant in 18 of those and for the respondent in 35 cases. Of the total 340 cases closed in 1996, 58 were withdrawn by the complainants before a determination was reached, and there were 8 cases resulted in voluntary settlements to the satisfaction of both parties.

Beginning in 1993 the Division implemented a statewide centralized Discrimination Complaint Investigation (DCI) Unit with five Deputy Labor Commissioners assigned full-time to investigate all discrimination complaints referred to the Division. The Deputies in the DCI Unit, currently six full-time investigators, receive ongoing training in investigative techniques and report writing in a effort to ensure they all have a thorough knowledge of the discrimination statutes. The efforts of the Division in centralizing and automating the investigative process of discrimination complaints have proved successful during this period of diminishing resources. The Division will continue to review its procedures to ensure the continuing success of the program.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Roberta E. Mendonca". The signature is written in dark ink and is positioned above the printed name and title.

Roberta Mendonca
State Labor Commissioner

Attachments (2)

February 1997

CALENDAR YEAR 1996 DISCRIMINATION COMPLAINTS FILED

Discrimination Complaints Labor Code Section	Total Cases Filed in 1996
6310 (Safety Complaint Retaliation)	102
6311 (Refusal To Work / Unsafe Conditions)	13
6310 / 6311 (Safety Complaint Retaliation / Refusal to Work)	43
98.6 / 1102.5 (Labor Commissioner Complaint / Whistleblower)	2
98.6 (Labor Commissioner Complaints)	244
98.6 / 6310 (Commissioner Complaints / Safety Complaint Retaliation)	1
230 (Jury Duty)	22
230.3 (Volunteer Firefighter)	2
98.6 / 232 (Commissioner Complaints / Disclosure of Wages)	1
232 (Disclosure of Wages)	7
1025 / 1028 (Alcohol and Drug Rehabilitation)	4
1102.1 (Sexual Orientation)	174
1102.5 (Whistleblower)	22
1102.5/ 98.6 (Whistleblower / Labor Commissioner Complaints)	4
230.7 / 230.8 (School Visits)	4
1102.5 / 6310 (Whistleblower / Safety Complaints)	5
1197.5 (Sex-Based Wage Discrimination)	19
2929 (Wage Garnishment)	4
1598.881 (Health & Safety Code)	13
1101 / 1102 (Political Activity)	2
2930 (Shopping Investigator)	3
Total Cases Filed	691

DISPOSITION OF DISCRIMINATION CASES CALENDAR YEAR 1996

<i>DISPOSITION OF DISCRIMINATION CASES</i>	<i>TOTAL</i>	
Determinations Issued		53
Determination for Complainant	18	
Determination for Respondent	35	
Investigative Hearings Held	13	
Appeals to Director	21	
Compliance Obtained:		
Proceedings Settled		8
Being Litigated		17
Complaints Withdrawn		58
Complaints Abandoned		100
Complaints Dismissed		104
GRAND TOTAL		340

2/11/97

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