



IMPACT OF THE ECONOMY ON EMPLOYMENT CLAIMS!



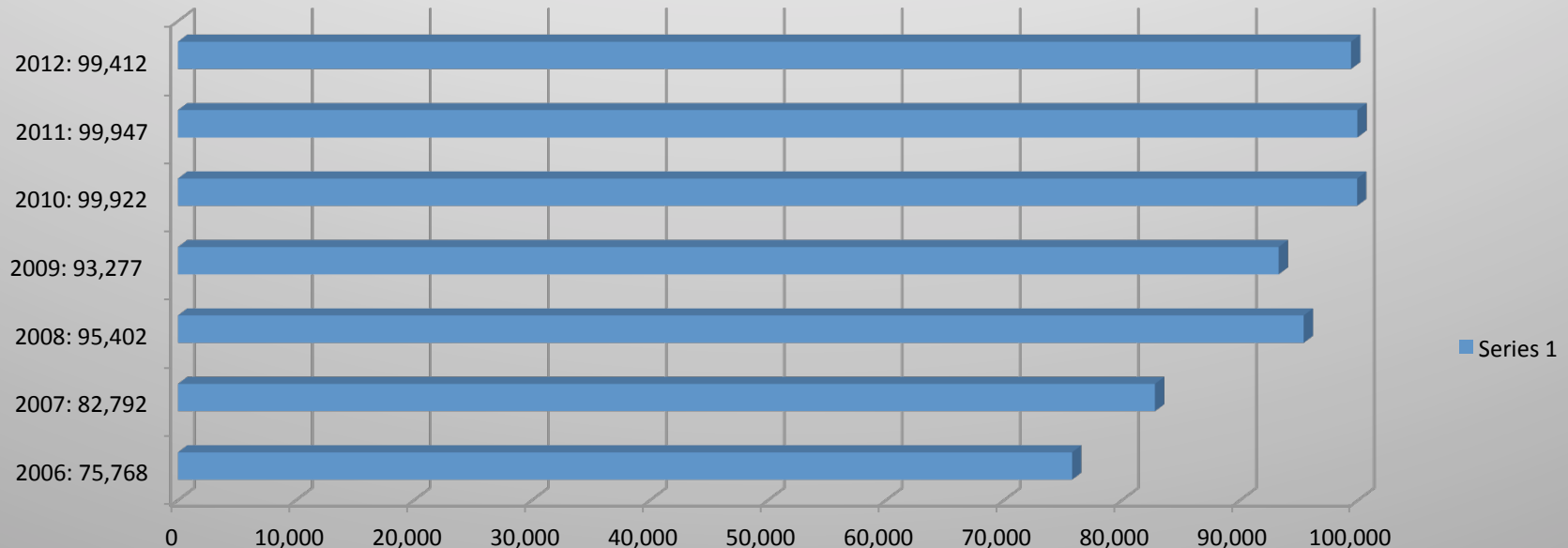
Former EEOC General Counsel Ron Cooper:
“There’s nothing that stimulates employment litigation like a bad economy.... People who have lost their jobs are a whole lot more likely to think about bringing a lawsuit than people who continue to be employed.”

DOES THE ECONOMY CONTINUE TO STIMULATE EMPLOYMENT CLAIMS IN 2013?



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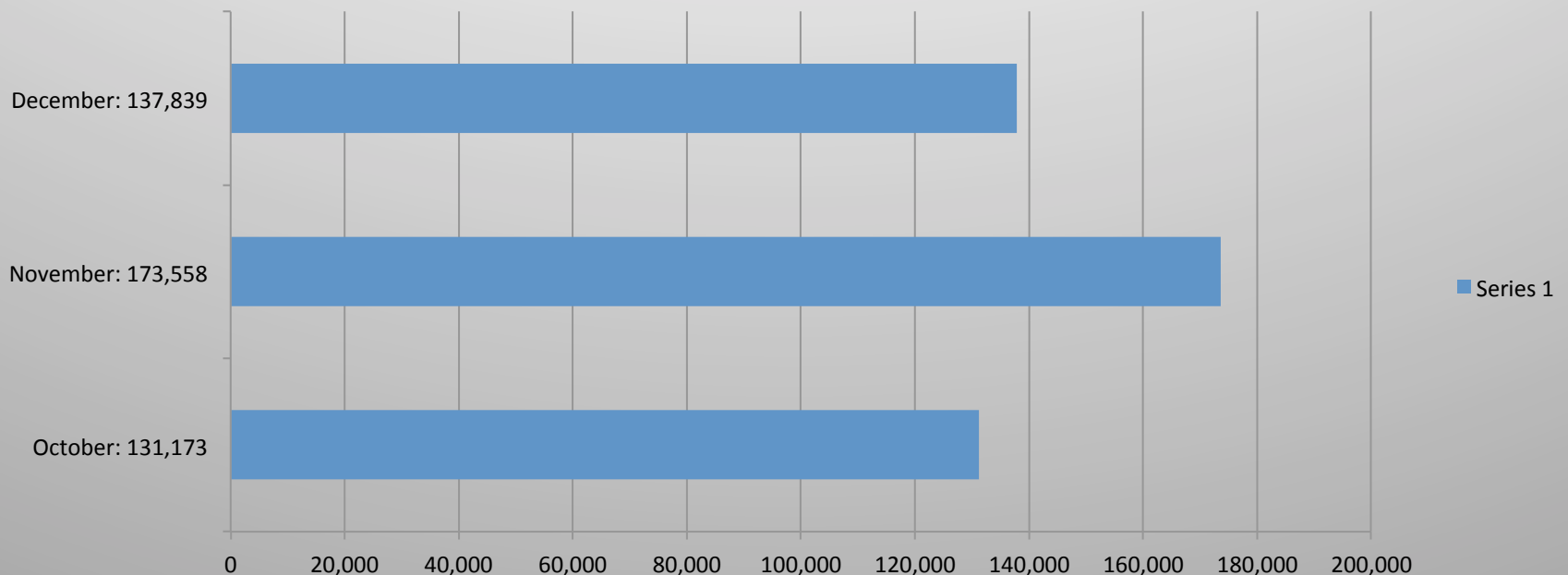
EEOC CHARGES FILED (2006-2012)



SOURCE: U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DOES THE ECONOMY CONTINUE TO STIMULATE EMPLOYMENT CLAIMS IN 2013?

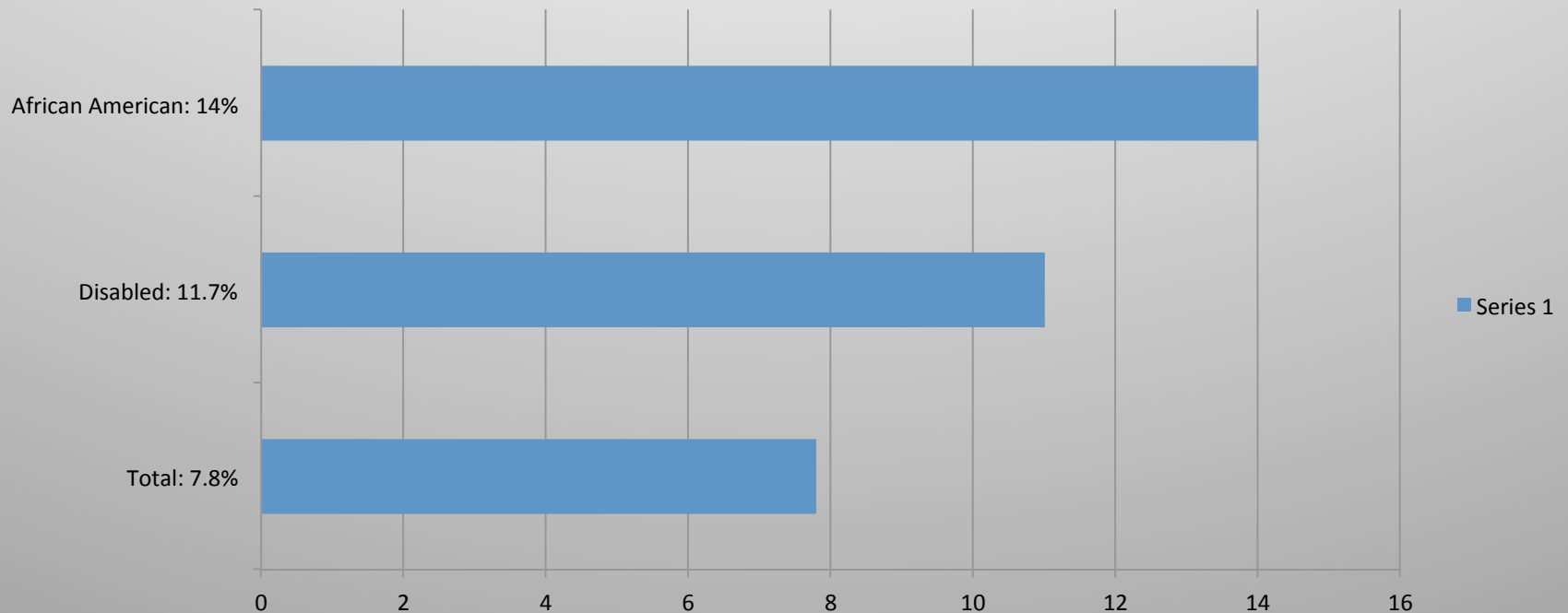
MASS LAYOFFS: THIRD QUARTER 2012



SOURCE: BUREAU OF LABOR STATISTICS

DOES THE ECONOMY CONTINUE TO STIMULATE EMPLOYMENT CLAIMS IN 2013?

UNEMPLOYMENT DATA: DECEMBER 2012



SOURCE: BUREAU OF LABOR STATISTICS

DOES THE ECONOMY CONTINUE TO STIMULATE EMPLOYMENT CLAIMS IN 2013?

DURATION OF UNEMPLOYMENT (DEC. 2012 DATA)

Average (Mean) Duration in Weeks: 38.1

27 or More Weeks: 39.1%

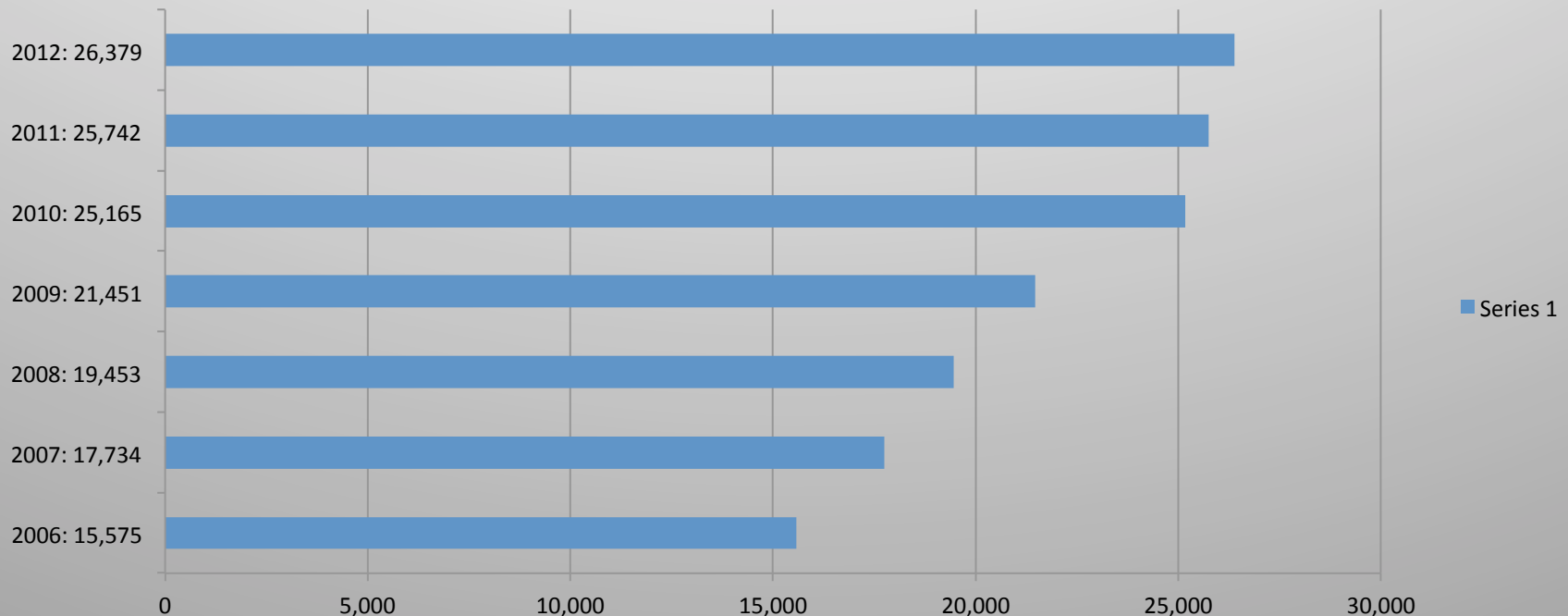
SOURCE: BUREAU OF LABOR STATISTICS

WILL DISABILITY DISCRIMINATION CLAIMS CONTINUE TO RISE IN A DOWN ECONOMY?



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DISABILITY CHARGES (2006-2012)



SOURCE: U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

WILL DISABILITY DISCRIMINATION CLAIMS CONTINUE TO RISE IN A DOWN ECONOMY?

MOST COMMON DISABILITY CHARGES

*	11.8%	REGARDED AS DISABLED
*	8.9%	ORTHOPEDIC AND STRUCTURAL IMPAIRMENTS OF THE BACK
*	8.8%	NON-PARALYTIC ORTHOPEDIC IMPAIRMENT
*	6.7%	DEPRESSION
*	6.1%	ANXIETY DISORDER

SOURCE: U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

WILL DISABILITY DISCRIMINATION CLAIMS CONTINUE TO RISE IN A DOWN ECONOMY?



OBESITY

- * ***BNFS Railway Co. v. Feit*** (July 6, 2012)
- * ***EEOC v. Resources for Human Development*** (Dec. 7, 2011)
- * ***Lowe v. American Euro-Copter, LLC*** (Dec. 16, 2010)

WILL DISABILITY DISCRIMINATION CLAIMS CONTINUE TO RISE IN A DOWN ECONOMY?



LEARNING DISABILITIES

- * Nov. 17, 2011 EEOC
Informal Discussion
Letter (High School
Diploma Requirements)**
- * June 11, 2012 EEOC
Informal Discussion
Letter (High School
Diploma Requirements)**

WILL DISABILITY DISCRIMINATION CLAIMS CONTINUE TO RISE IN A DOWN ECONOMY?



LEAVE OF ABSENCE (AS AN ACCOMMODATION)

- * **July 2011: Verizon Settles EEOC Suit Based on No Fault Attendance Policy for \$20 Million**
- * ***Robert v. Board of Comm'rs* (Aug. 29, 2012)**

WILL DISABILITY DISCRIMINATION CLAIMS CONTINUE TO RISE IN A DOWN ECONOMY?



SUBSTANCE ABUSE

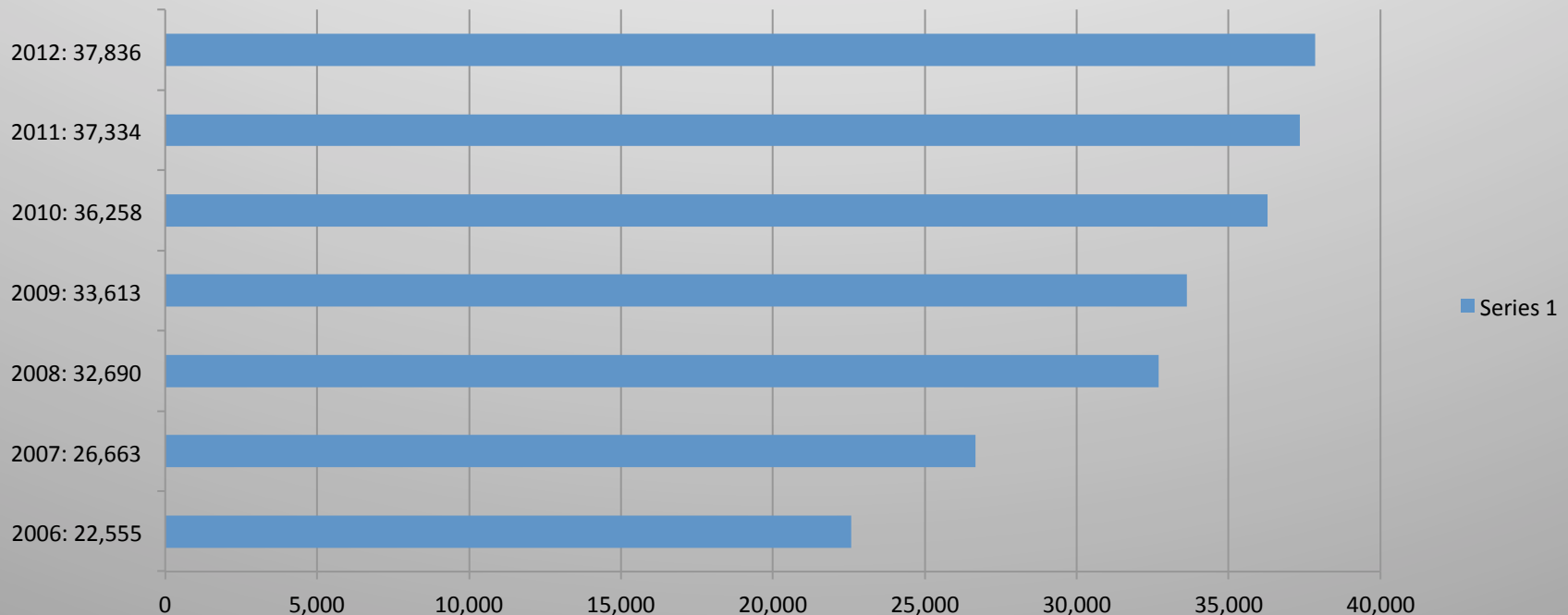
*** MEDICAL MARIJUANA**

WHAT OTHER CLAIMS REMAIN PREVALENT IN A DOWN ECONOMY?



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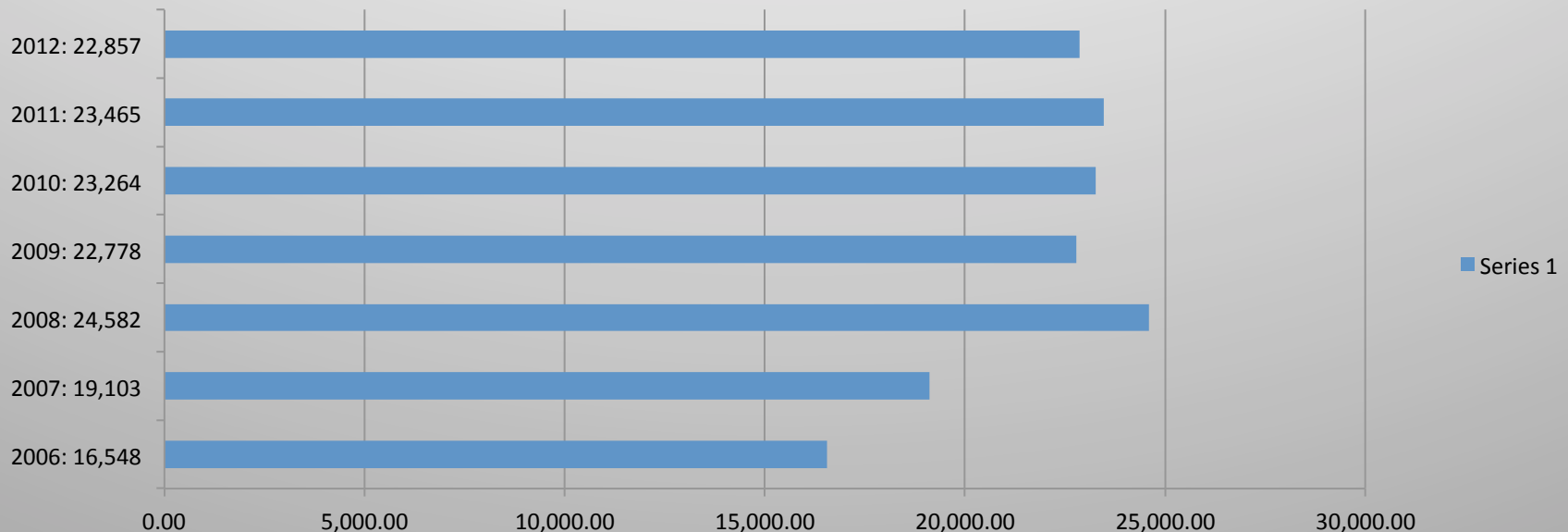
RETALIATION CHARGES (2006 - 2012)



SOURCE: U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

WHAT OTHER CLAIMS REMAIN PREVALENT IN A DOWN ECONOMY?

AGE DISCRIMINATION CHARGES (2006-2012)



SOURCE: U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

EMPLOYEE BACKGROUND CHECKS: HAS THE ECONOMY SPARKED A SEA CHANGE?



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FAIR CREDIT REPORTING ACT

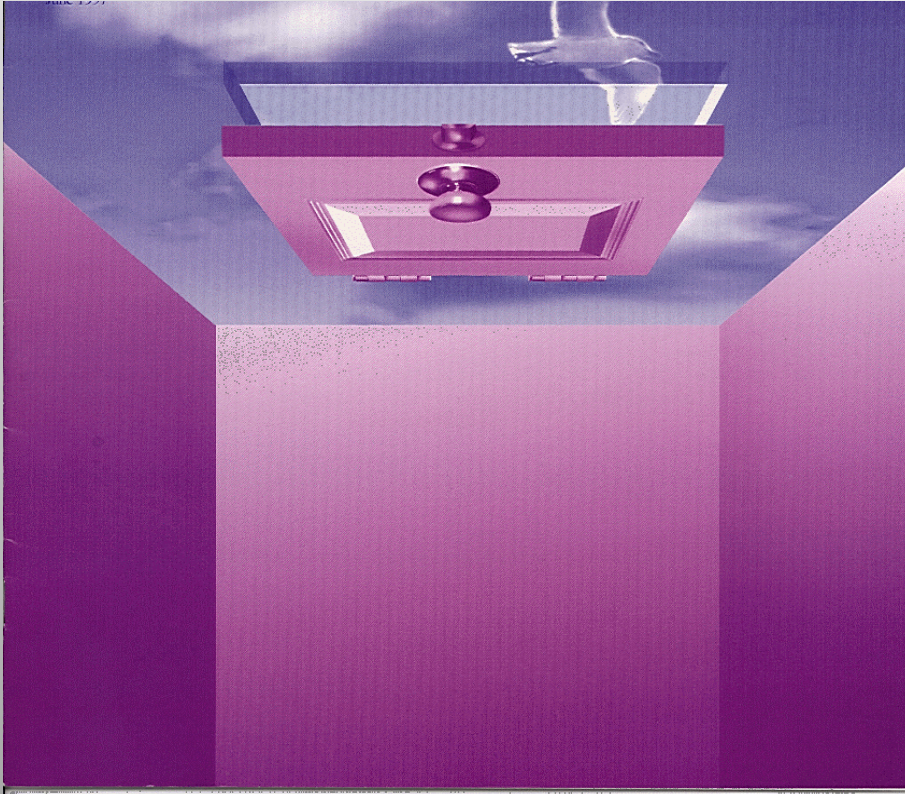
- * **Strict Requirements**
- * **State Law May be More Restrictive (e.g. Arizona, California, Hawaii, Massachusetts)**
- * **Significant Exposure**
- * **Class Action**

EMPLOYEE BACKGROUND CHECKS: HAS THE ECONOMY SPARKED A SEA CHANGE?

FAIR CREDIT REPORTING ACT CLASS ACTIONS

- * Jan. 19, 2011: *Edwards v. Dillard's, Inc.* (E.D.Va.)
- * July 1, 2011: *Singleton v. Domino's Pizza, LLC* (D.Md.)
- * Aug. 8, 2011: *Daniel et al. v. Swift Transportation Corp.* (D.Az.)
- * Oct. 17, 2011: *Pitt v. KMart Corporation* (E.D.Va.)
- * Dec. 6, 2011: *Smith v. Capital One, N.A.* (D.Md.)
- * July 23, 2012: *Warren v. Green Mountain Coffee Roasters, Inc.* (E.D.Va.)
- * Sept. 11, 2012: *Stinson v. Advance Auto Parts, Inc.* (W.D.Va.)
- * Dec. 4, 2012: *Ernst v. Dish Network, LLC* (S.D.N.Y.)
- * Lessons

EMPLOYEE BACKGROUND CHECKS: HAS THE ECONOMY SPARKED A SEA CHANGE?



EMPLOYMENT DISCRIMINATION LAWS

- * April 25, 2012: EEOC Enforcement Guidance on the Consideration of Arrest and Conviction Records in Employment Decisions
- * Dec. 6, 2012: EEOC Informal Discussion Letter (Conviction Records as Employment Criteria)
- * March 9, 2010: EEOC Informal Discussion Letter (Credit Checks)
- * Oct. 20, 2010: EEOC Public Meeting Regarding Credit Checks
- * EEOC Litigation

EMPLOYEE BACKGROUND CHECKS: HAS THE ECONOMY SPARKED A SEA CHANGE?

- * EEOC LITIGATION**
- * Jan. 11, 2012: Pepsi and EEOC Reach \$3.1 Million settlement on claim that Pepsi's criminal background check policy had a disparate impact on African American applicants.**
- * Dec. 21, 2010: EEOC Sues Kaplan Higher Education in an Ohio federal court alleging the company's use of job applicants' credit history discriminated against job candidates on the basis of race.**
- * Lessons**

EMPLOYEE BACKGROUND CHECKS: HAS THE ECONOMY SPARKED A SEA CHANGE?



BANKRUPTCY CODE

EMPLOYEE BACKGROUND CHECKS: HAS THE ECONOMY SPARKED A SEA CHANGE?



STATE LEGISLATION: CREDIT INFORMATION

- * California (2011)
- * Connecticut (2011)
- * Hawaii (2009)
- * Illinois (2010)
- * Maryland (2011)
- * Oregon (2010)
- * Vermont (2012)
- * Washington (2007)

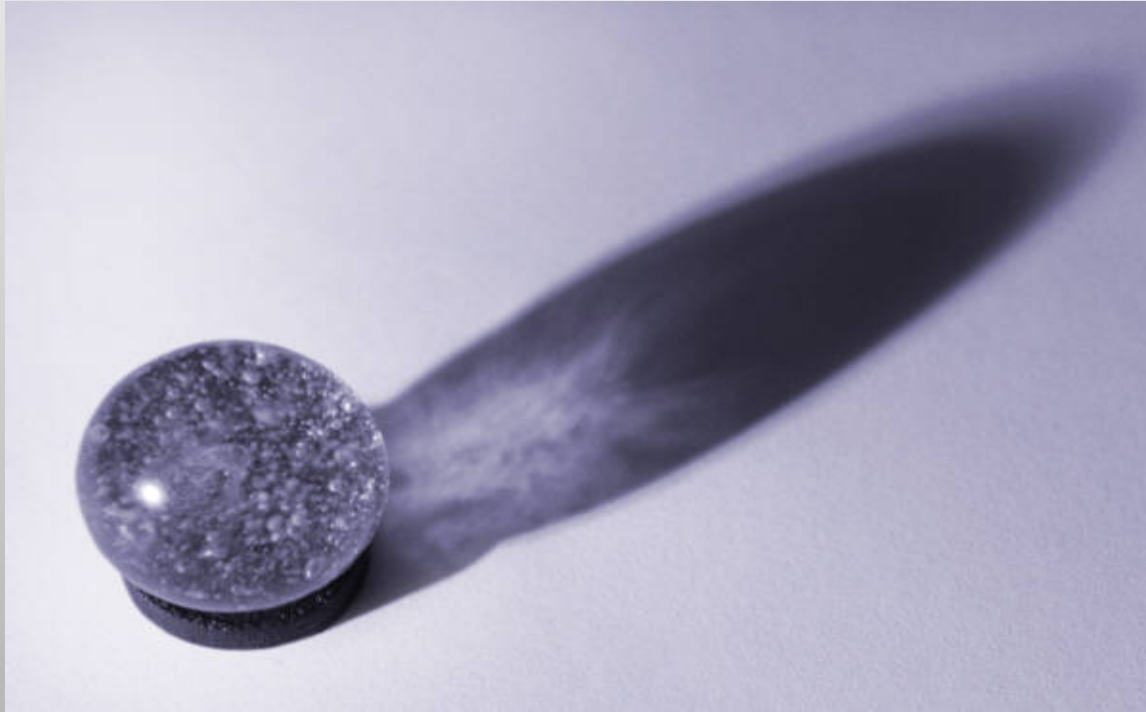
EMPLOYEE BACKGROUND CHECKS: HAS THE ECONOMY SPARKED A SEA CHANGE?



STATE LEGISLATION: CRIMINAL HISTORY

- * Hawaii
- * Indiana (2012)
- * Massachusetts (2010)
- * Pennsylvania
- * Wisconsin

CRYSTAL BALL GAZING



QUESTIONS

