

Northwestern University  
Department of Sociology  
*The Changing Dynamics of Employment Discrimination Litigation, 1990-2003*

INTERVIEW SCHEDULE

*Thank you so much for agreeing to participate in our interview. As you know from the consent form, you may stop the interview at any time or you may skip answering any particular question. As noted in the consent form, we do not expect to talk to you about pending legal matters. We will not ask you to breach attorney-client privilege or any other legal agreements.*

*First we'll ask a few questions about your position and the organization. Then we have some general questions about how the organization processes discrimination complaints. After that, we'd like to discuss a specific, closed legal case against the company or, if you don't want to do discuss that case, we can talk about the most recent case that you've worked on and is now closed.*

I. Last Case Completed or Case from our Sample

*We are using a random process to draw employment discrimination cases and we drew the case: (case name). If you were involved in that case, we'd like to talk to you about it specifically. If you do not remember, were not involved or simply prefer, we can discuss an employment discrimination case of your choosing that is recently completed. We will use this as a point of reference about the typical cases that come across your desk and ask you to comment on whether or not it was typical of most of the discrimination cases against the organization.*

1. Can you briefly tell us about the problem with the employee and the case?
2. At what point did you become involved in the case?
3. How did you assess the case and decide how to begin your representation? (What are the first things you want to know? What are the first things you do?)
4. What had already happened when it got to you? Is that typical? Is that the ideal?
5. What were the facts of the case? What were your initial reactions to the facts of the case?
6. At what point did an HR person become involved and what steps were taken? What is the basic structure of the HR department? Are there lawyers in that department or do they consult with the legal department?
7. At what point did a lawyer become involved?

8. Was it an in-house lawyer?
9. At what point (if ever) was outside counsel consulted? Is that typical?
  - A. How do you choose outside counsel?
  - B. Does it vary by case? Type of case?
10. Were you involved prior to the organization being notified that the Plaintiff had filed a complaint with the EEOC/FEPA? If yes, in what way?
11. From the time that the organization knew there was some problem, how long was it before the EEOC complaint was filed?
12. Did the EEOC complaint come as a surprise?
13. What contact, if any, did the HR department and the lawyers have with the plaintiff once the EEOC complaint was filed?
14. Were you involved in the EEOC/FEPA reply process? If so, who did you work with in the defendant's organization? (HR? Inside Counsel? Line Manager?) What was the outcome of the EEOC/FEPA process?
15. What were the Plaintiff's goals in their lawsuit? How sophisticated was the Plaintiff about employment law and how did that affect your approach to the case?
16. Was the Plaintiff represented by a lawyer? What was your impression of the lawyer? Had you faced this lawyer before?
17. What were your organization's goals at the beginning of the case? What did the organization want, concretely? How realistic were the goals, in your opinion?
18. What were your goals at the beginning of the case?
19. How (if at all) do you think the organization's goals changed over the course of the case? Did you play a role in changing them?

IA. Stages of the Case

*Pre-trial Process*

20. What did the client think about meeting the initial terms of the demand?

21. Walk us through the major phases of the case. Why was the case in federal court? Was an early settlement discussed? Were there any early motions? How did discovery proceed?
22. Was there a motion for summary judgment?
23. Were you optimistic about prevailing?
24. Did this case go to mediation? If no, was it a consideration? Why or why not?
25. Did this case have a settlement conference before a magistrate? If no, was it a consideration? Why or why not?
26. What was the ultimate outcome of any pre-trial settlement talks? What was offered? What was the response?
27. Has the pre-trial process changed in the past ten years? How?

*Trial Process*

28. If pre-trial resolution failed, what was the nature of the trial? What was the outcome? Was the decision appealed?

*Outcome/Resolution*

29. How was the case resolved?
30. Do you believe the Plaintiff's goals changed over the course of the lawsuit? In what way?
31. Did the organization get what it wanted?
32. Do you think your organization's goals changed over the course of this lawsuit? Did they get what they wanted? Did you try to influence their goals? If so, how and do you think you were successful?
33. If the case settled, who had the authority to set amounts and make final decisions?
34. What factors do you think played a primary role in determining the outcome of the case?
35. Were you satisfied with the outcome?
36. Appx. how many hours did you spend on that case/issue?

37. What was (most) unusual about this case?
38. What was typical about this case?

## II. General- Employee Discrimination Complaints

39. If an employee thinks that he or she was discriminated against, what typically happens?
  - A. Is there an internal process for discrimination complaints? If so, what department is responsible?
  - B. About how many of those “situations” or complaints does the organization get in a typical year?
  - C. What usually happens (e.g. mediation)?
  - D. What is the nature of those complaints?
  - E. What is your role in that process?
  - F. *If it’s a large organization, may want to ask about differences across geographic regions, departments, etc.*
40. How many complaints does your organization get from the EEOC in a typical year?
  - A. What is the nature of those complaints?
  - B. In general, how are they resolved?
41. And overall, about how many actual employment discrimination lawsuits are filed against your company/organization face in a typical year?
  - A. What is the nature of those lawsuits?
  - B. In general, how are they resolved?
  - C. If relevant: Why do think some cases become lawsuits, while others are dropped or resolved through other means?
42. So \_\_\_\_ (which) department in your organization is primarily responsible with discrimination complaints?
  - A. How many permanent employees are in that department?
  - B. Is there a lawyer in the HR department?
  - C. How many employees is this department responsible for?
43. Does the organization have a Human Resources office? *[If relevant]*
  - A. How many permanent employees are in that department?
  - B. Is there a lawyer in the HR department?
  - C. How many employees are they responsible for?
44. Does the organization have an EEOC office? *[If relevant]*
  - A. How many permanent employees are in that department?
  - B. Is there a lawyer in the HR department?
  - C. How many employees are they responsible for?

45. Does your organization have any kind of diversity, sensitivity, or anti-discrimination programs, policies, or training? If so:
  - A. What type of policies, programs, or training?
  - B. Who participates in them?
  - C. Do you think they have been helpful in averting potential discrimination lawsuits, or do they play some other function in the company?
  
46. In your judgment, how many of the EEOC complaints filed against the company are simply frivolous? The lawsuits?

### III. Background

*So let's talk a little about the organization and your role in it.*

39. Tell us a little bit about yourself.
  
40. What proportion of your time is spent on employment discrimination? What are the other matters you handle?
  
41. How did you come to have this job? How long have you been here?