# THE IMPACT OF DEI ON RISK MANAGEMENT

March 23, 2023

Featuring:

THOMAS HAMS, ESQ.

Aon Risk Solutions

**RYAN DAVIS** 

National Association of REALTORS®

TIARA PITTS, ESQ.

South Carolina Association of REALTORS®









## **TOPICS**

- Coverage review
- Industry outlook
- NAR initiatives and resources
- DEI in action
- Q & A



## WHY ARE WE HERE?



#1 in claims filed for 2022



EPL claims increased 118% over 2021



## WHY ARE WE HERE?





EPL claims comprised 40% of all claims in 2022 Discrimination & harassment more than half of all EPL claims



## WHY ARE WE HERE?

## Diversity, Equity and Inclusion





Legal Actions and Insurance Claims



Discrimination and Harassment



## NAR Institutes, Societies & Councils

- State and Local Chapters
- Subsidiaries

### State and Local REALTOR® Associations

- Charitable Foundations
- Political Committees
- Educational Endeavors

MLSs wholly-owned and operated by two or more Associations



**Directors & Officers** 

**Committee Members** 

**Employees** 

While acting within the scope of their duties on behalf of the insured entity.



## **Employment Practices Liability (EPL):**

- Employment-related discrimination;
- Employment-related harassment, including gender, racial, religious, sexual orientation, pregnancy, disability, age, or national origin-based
- Harassment, or unlawful workplace harassment, including workplace harassment by any nonemployee;
- Abusive or hostile work environment;
- Wrongful dismissal or discharge or termination of employment, whether actual or constructive;
- Breach of an actual or implied employment contract;
- Wrongful deprivation of a career opportunity, wrongful failure or refusal to employ, promote, or grant tenure, or wrongful demotion;

## Employment Practices Liability (EPL), contd.

- Employment-related defamation, libel, slander, etc.;
- Wrongful failure or refusal to adopt or enforce workplace or employment practices, policies or procedures;
- Wrongful discipline;
- Employment-related wrongful infliction of emotional distress, mental anguish, or humiliation;
- Retaliation;
- Negligent evaluation; or
- Negligent hiring, supervision, retention or training.

Claim limit is \$500,000 per claim.



## **Exclusions:**

- Claims arising from Worker's Compensation Law,
   Unemployment Compensation Law, Employers Liability Law,
   Disability Benefits Law.
- Claims attributable to the administration of, participation in contributions to, or payments from any pension or benefits plan or trust fund.
- Claims for wages, salaries, commissions, fees, bonuses, promotions, profit sharing, pensions or other employee benefits earned in the normal course of employment.





## THOMAS HAMS, ESQ.

Managing Director, National EPLI Practice Leader

Financial Services Group Aon Risk Solutions

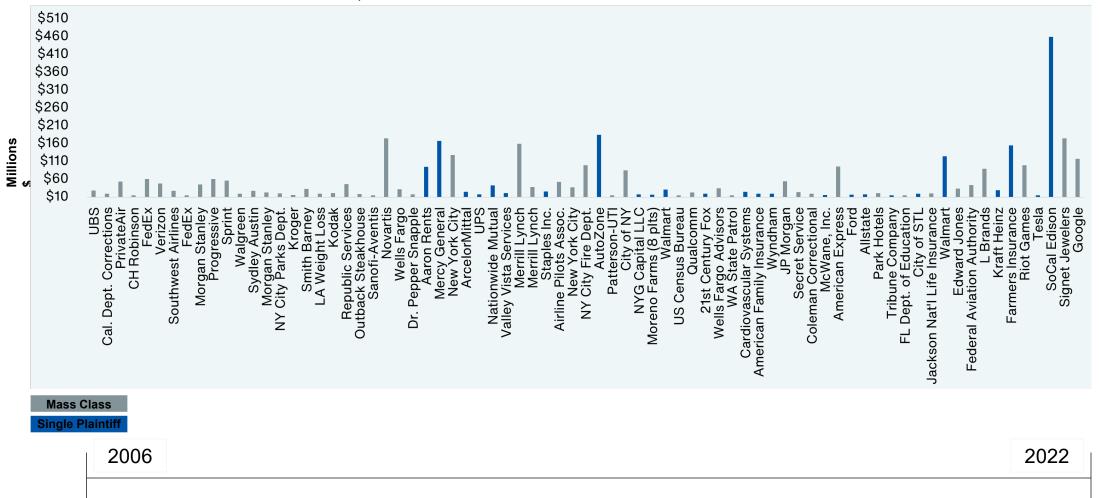


**Employment Claims Trends** 



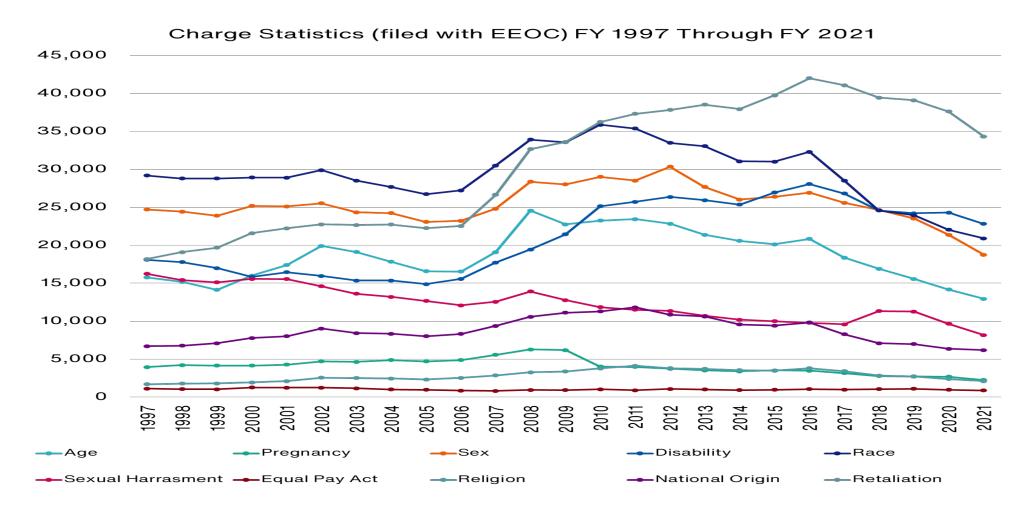


Settlements and Verdicts above \$15M





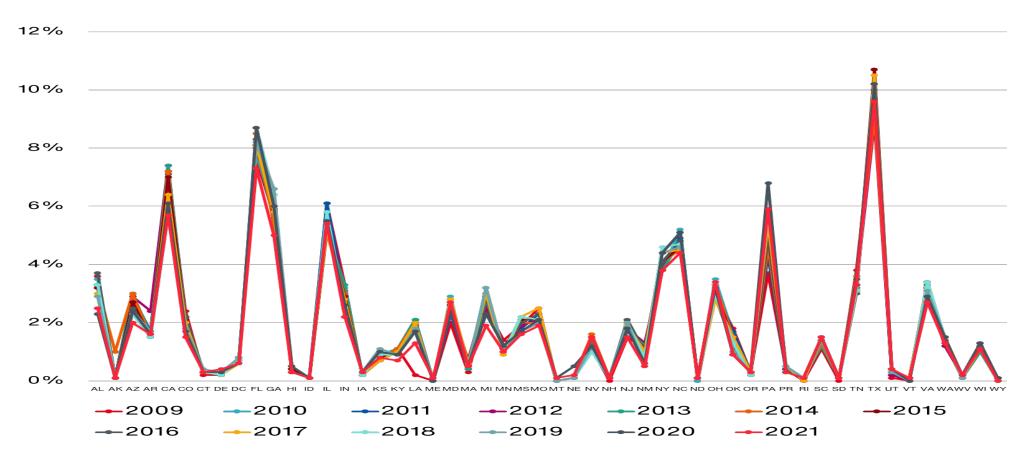
**Equal Employment Opportunity Commission Charge Patterns** 





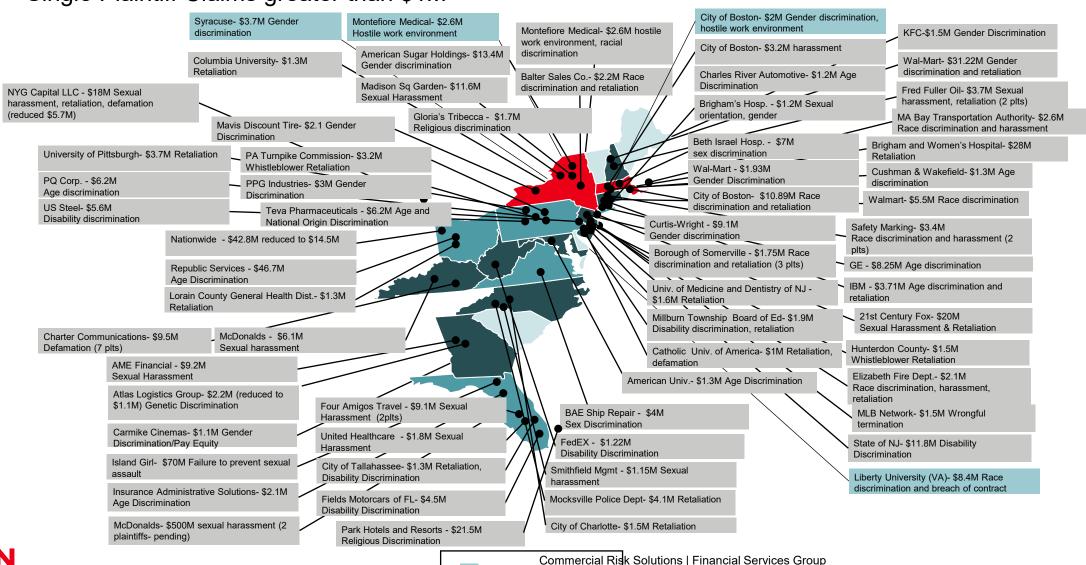
Equal Employment Opportunity Commission: Charge Concentration by State

#### Percentage of Total Charge Filings by State



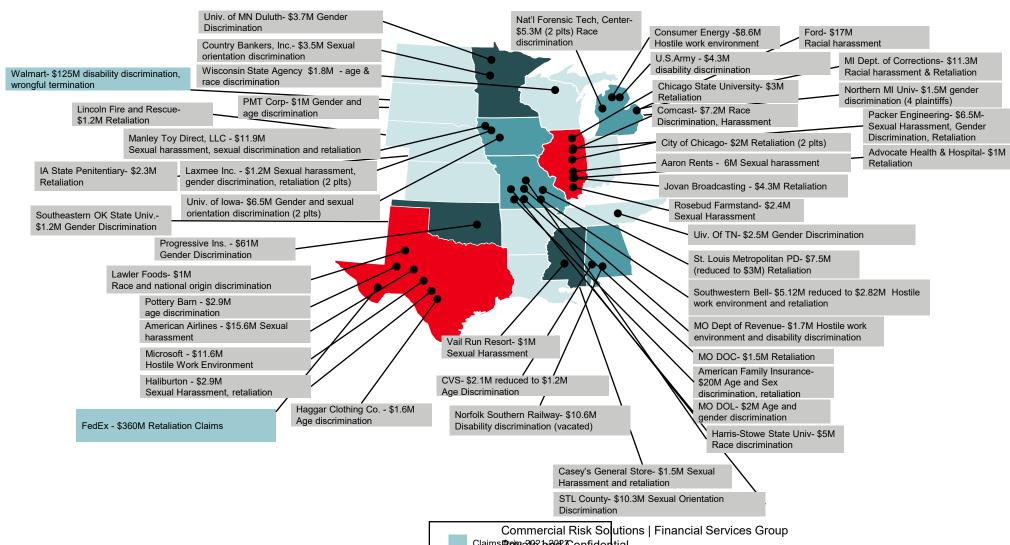


#### Single Plaintiff Claims greater than \$1M



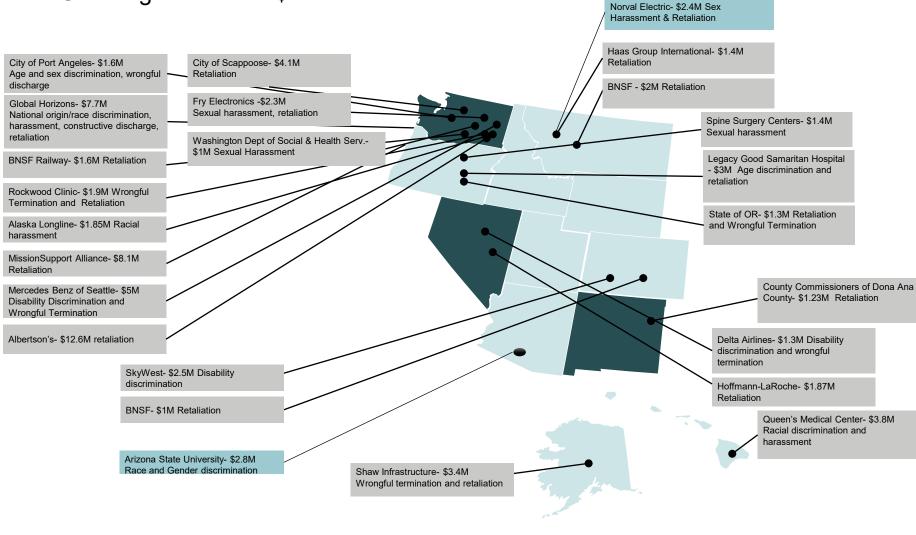
Claims from 2021 vare 2022 and Confidential

#### Single Plaintiff Claims greater than \$1M



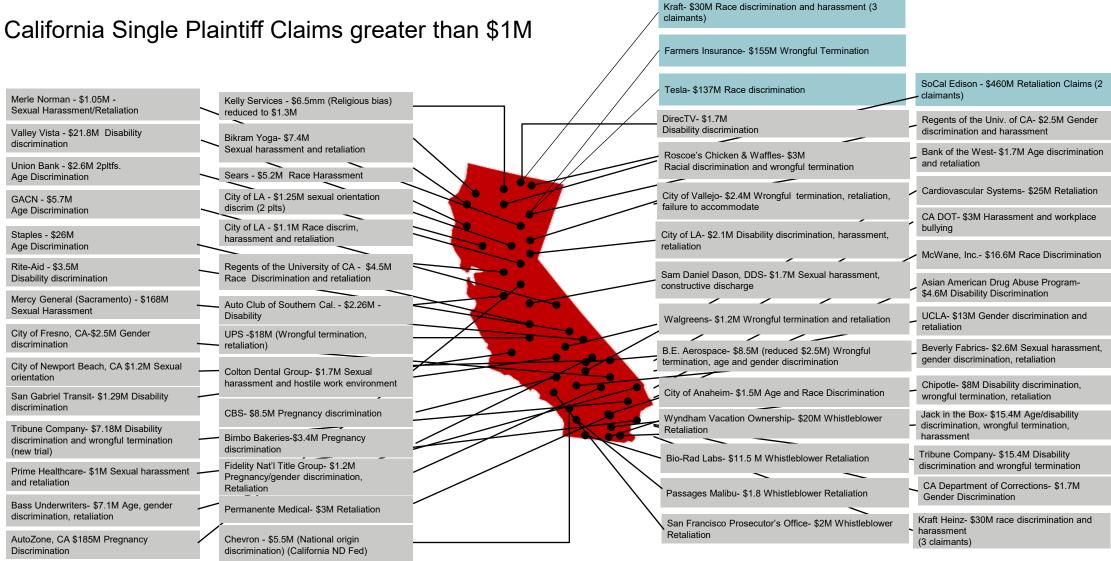


Single Plaintiff Claims greater than \$1M













## **RYAN DAVIS**

Director of Engagement,
Diversity and Inclusion
National Association of REALTORS®





## TIARA PITTS, ESQ.

**Director of Fair Housing**South Carolina Association of REALTORS®





## **RESOURCES**



#### REMINDER



# Excess insurance deadline is April 3, 2023

- Professional Liability/Cyber Response
- > Antitrust
- Crime Loss
- Patent Infringement



#### **QUARTERLY RISK REPORT**

## Available on nar.realtor/narinsurance-program

## NAR INSURANCE PROGRAM **QUARTERLY RISK REPORT**

#### IN THE SPOTLIGHT:

#### GOVERNANCE AND BOARD **LEADERSHIP**

As many associations welcome new board members at the turn of the year, now is a good time to review and remind the association directors about their fiduciary duties, association policies (e.g., antitrust compliance, antiharassment, and conflict of interest), board procedures, and the basics of good sense governance.

An excellent way to prepare board members for their role is providing annual orientation which covers matters such as a director's role in overseeing the association's operations, the business judgment rule, and their fiduciary duties to the organization.

As a reminder, coverage under the NAR Insurance Program is dependent on the association or MLS adopting all mandatory NAR policies, as well as adhering to the association's bylaws and policies. This means the association and its board must act in accordance with the association's governing documents and applicable state and local laws, Examples of such actions include:

- Providing adequate notice. Taking action at an improperly called board meeting, such as failing to provide proper notice or acting without a quorum, can be invalidated by a court if the action is
- Acting in the best interests of the association and its members. The board of directors are required to avoid and disclose any conflicts of interest.

#### YEAR IN REVIEW

59 claims were filed on the NAR Insurance Program in 2022, with a stunning 40% of claims arising from employment practices. As we begin a new year, set aside time to brush up on best practices and current trends to get out in front of potential employment claims. Here are some

Trending Employment Law Issues Webinar

Quarterly Risk Report on Sexual Harassment

In addition, take advantage of the HR consulting services offered by the professionals at NAR's Strategic Association Management program.

 Acting with a duty of care. The board is required to act with reasonable diligence and prudence which means staying engaged, being informed

Take steps now to empower and enable the board to protect the interests of your association and its members, make good and informed decisions, and avoid liability claims, Check out NAR's Board of Directors Orientation Toolkit for customizable presentations.

The NAR Insurance Program provides professional liability and limited patent infringement coverage to all eligible associations, affiliates, and MLSs





#### **NEXT WEBINAR**



## ANTITRUST FOR ASSOCIATIONS

Save the date!
June 22, 2023
2 pm CT



#### **MORE INFORMATION**

#### NAR INSURANCE PROGRAM

## nar.realtor/nar-insurance-program

#### **AON ACCOUNT EXECUTIVES**

#### **Gayle Andrews**

Gayle.Andrews@aon.com 312-381-7049

#### Laura Sereika

Laura.Sereika@aon.com 312-381-2602



## THANK YOU.









**NARdotRealtor** 

nar.realtor

