

Are Any Cases Getting Thrown Out as “Frivolous” at the CHRO Anymore?

By [Daniel Schwartz](#) on December 21st, 2011



State Law Changes To CHRO

[As I've noted before](#), the CHRO procedures were changed effective October 1, 2011. One question that we had at the time was whether the CHRO would be retaining more discrimination claims by employees for investigation — [getting past the Merit Assessment Review stage](#).

Previously, employers have had at least a little luck getting plainly frivolous claims thrown out at MAR.

If the reports I've been getting from multiple reliance sources are true, then it appears those days are over.

I've spoken with several people this month about cases that they are seeing at the CHRO. Universally, the reports are that the CHRO is retaining nearly every case for a fact-finding and mandatory mediation, even the blatantly frivolous ones.

This has a few implications for employers:

- 1) First, employers may want to consider whether it is worthwhile preparing a long position statement and response to the initial complaint. If the case is going to move forward anyways and there is no hope of getting the case dismissed early, then what is the benefit to spelling out the entire case?
- 2) Second, this also means that cases at the CHRO are now going to be even more expensive. Even the frivolous cases will have some nuisance value attached to them now because the employer will have to be involved with a full investigation if the case doesn't settle early on.
- 3) Third, employers should now respond to the allegations with the idea that the case will virtually always go to investigation. That may change the strategy and the time expended.

The CHRO has yet to publicly release any statistics about this (they still haven't even released their FY 2010-2011 statistics; [indeed, minutes from the CHRO's meeting in October](#) reveal only that "With the New Public Act #11-237 the cases should be moved along quickly. Agency training has started, which will produce more closures with less people." While that may be a long term trend, it is just as important to understand when the case will close.

So readers, what have you been seeing at the CHRO? Any trends over the last quarter?

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