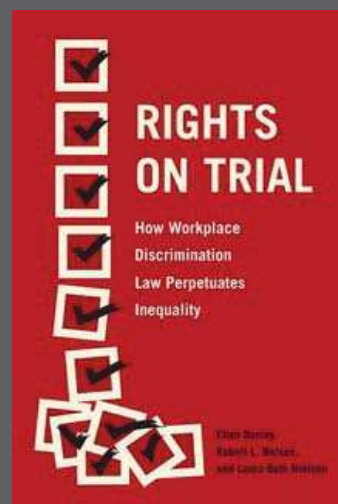


Rights on Trial: How Workplace Discrimination Law Perpetuates Inequality

Laura Beth Nielsen
Professor of Sociology & Director of Legal Studies, Northwestern University
Research Professor, American Bar Foundation



Plaintiff Gerry Handley



GH: [This white guy said something, they said, they started talking about, the pulled up this] conversation and I was there working on the computer with them, and they would like always bring up these racial conversations and make these racial jokes. What I would do is I'd just ignore them. I wouldn't laugh or I wouldn't listen in, I would just sit there and they would try to pull me into the conversation asking me questions. They started talking about incest and they started talking about blacks from slavery time, you know, they bred them and sold them, and they inbred them down in the south, and I'm from down south, and so they asked me, they told me a lot of the blacks had sex with their daughters and stuff like that, way back from the Caribbean's, and I would just sit there listening like, "Oh my God, I know they're not saying this." And the guy asked me, he said, "did I ever have sex with my daughter?" And so . . .

LB: He asked you if you had sex with your daughter?

GH: Yeah.

LB: And this is your boss or your manager?

GH: He was like my lead.

Three Major Themes

- Adversarialism
- Individualization
- Reinscription

Theme 1:

Adversarialism & Litigious Policy

- Role of law in addressing social problems
- *Employment discrimination as a litigious policy and enforcement relies on rights vindicated by individuals in courts (Burke, Barnes, Farhang)*
- Distorts and polarizes disputes

Figure 2.1

Federal Civil Cases and Employment Discrimination Cases 1972-2015

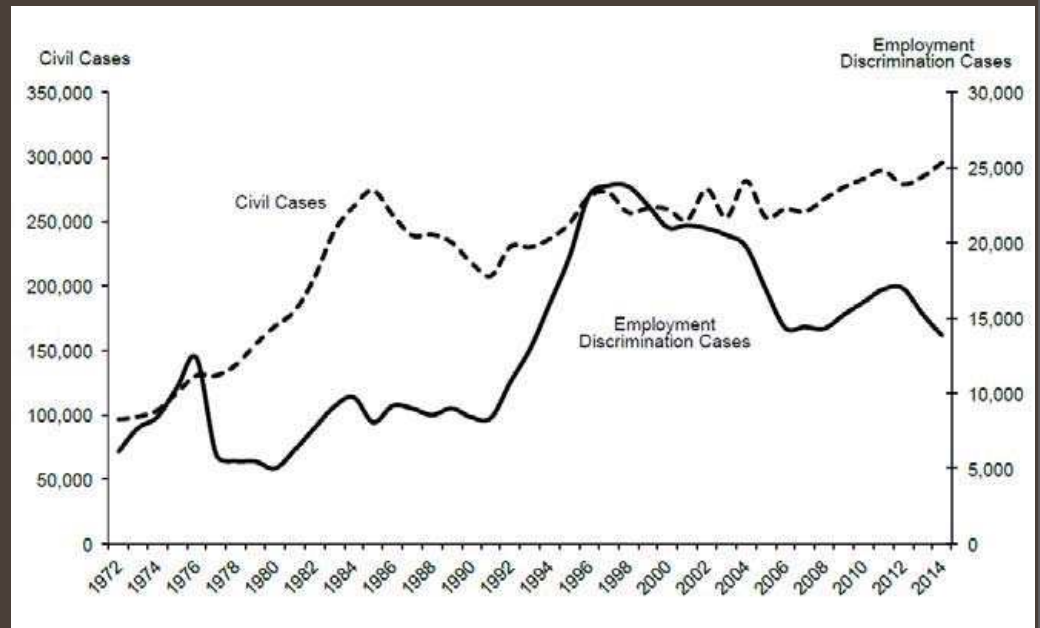
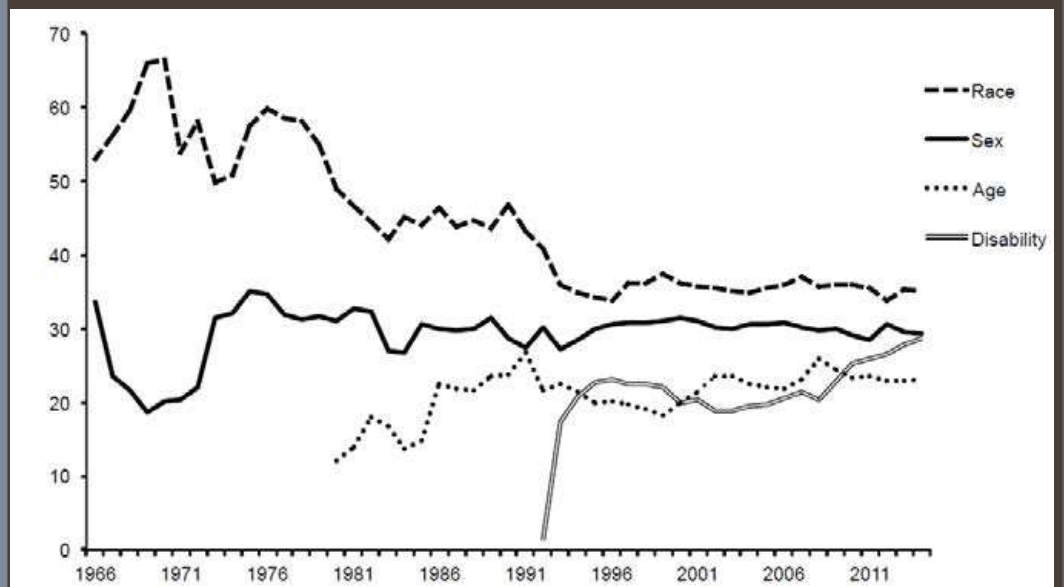


Figure 2.3

Percentage EEOC Charge Receipts by Race, Sex, Age, Disability 1966-2014



Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](https://utcle.org/elibrary)

Title search: Rights on Trial: How Workplace Discrimination Law Perpetuates Inequality

First appeared as part of the conference materials for the
25th Annual Labor and Employment Law Conference session
"Rights on Trial: How Workplace Discrimination Law Perpetuates Inequality"