

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS**

STATE OF TEXAS,

Plaintiff,

v.

MERRICK GARLAND, in his official capacity as
Attorney General, *et al.*,

Defendants.

Case No. 5:23-cv-00034-H

DEFENDANTS' NOTICE OF COMPLIANCE

Pursuant to the Court's February 27, 2024, Final Judgment (ECF No. 111) and accompanying Memorandum Opinion and Order (ECF No. 110), the remaining Defendants¹ write to advise the Court of their compliance with the injunction entered against them as to enforcement of the Pregnant Workers Fairness Act ("PWFA") against the State of Texas and its divisions and agencies.

Defendants have taken immediate action to ensure that charges against the State of Texas, its divisions, and its agencies where the sole statutory basis for the charge is the PWFA are not accepted if received and to ensure—where the EEOC or one of its state or local counterparts in Texas automatically logs charges upon receipt—that no further investigatory action is taken on charges where the sole statutory basis is the PWFA once any such charges are identified.

Consistent with this Court's order, upon receipt of a charge against the State of Texas or its divisions or agencies where the sole statutory basis for the charge is the PWFA—or if an individual seeks to file a charge against the State of Texas or its divisions or agencies where the sole statutory basis is the PWFA—the EEOC will advise the complainant that, because of the Court's injunction,

¹ The remaining Defendants are Merrick Garland, the United States Department of Justice, the Equal Employment Opportunity Commission ("EEOC"), Charlotte A. Burrows, Jocelyn Samuels, Keith E. Sonderling, Andrea R. Lucas, and Karla Gilbride (who, as the EEOC's General Counsel, should be substituted for Christopher W. Lage under Fed. R. Civ. P. 25(d)). All others have been dismissed. *See* ECF No. 111 at 2.

the Commission is unable to accept the charge, investigate it, or issue a right-to-sue letter.

For charges received by the EEOC against the State of Texas or its divisions or agencies that include allegations under both the PWFA and one or more other laws enforced by the EEOC, such as Title VII of the Civil Rights Act of 1964, the EEOC will: (1) advise the complainant that, because of the Court's injunction, the Commission is unable to accept, investigate, or issue a right-to-sue letter where the PWFA is the statutory basis; and (2) limit any investigatory actions to alleged violations of laws other than the PWFA. When such charges that include allegations under both the PWFA and one or more other laws enforced by the EEOC are served on a division or agency of the State of Texas, the EEOC will notify that division or agency that the EEOC did not accept the allegation of a violation of the PWFA and that any investigation or further action performed by the EEOC will be limited to alleged violations of laws other than the PWFA.

The state divisions and agencies to which the EEOC will apply the injunction includes the roughly 150 divisions and agencies listed on the State of Texas's website² and the additional state agencies and universities listed on the Texas Comptroller's website,³ which counsel for Texas brought to Defendants' attention. Although the EEOC is taking reasonable steps to identify charges covered by the injunction, in the event the EEOC mistakenly sends notice related to a PWFA charge to a division or agency of the State of Texas (either because the EEOC did not identify the employer as a state division or agency based on the information presented by complainant or for any other reason), the EEOC expects that the state division or agency will inform the EEOC of this mistake. Upon receipt of this information from the state division or agency, or if the EEOC discovers the mistake on its own, the EEOC will take all steps necessary to comply with the Court's injunction, including informing the state division or agency that the charge (or, if other statutes are involved, the portion

² *Texas State Agencies & Departments*, <https://perma.cc/AS86-R9Z5>.

³ *Texas State Agencies by Name and Number*, <https://perma.cc/V3DZ-ZD73>.

of the charge) alleging a violation of the PWFA has not been accepted and notifying the complainant that, due to the Court's order, the EEOC is not able to accept, investigate, or issue a right-to-sue letter regarding any allegations of a violation of the PWFA in the charge.

Defendants do not waive any right to seek appellate relief.

Dated: March 6, 2024

Respectfully submitted,

BRIAN M. BOYNTON
Principal Deputy Assistant Attorney General

JOHN GRIFFITHS
Director, Federal Programs Branch

LESLEY FARBY
Assistant Branch Director

/s/ Clayton L. Bailey
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Counsel for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on March 6, 2024, I electronically filed the foregoing paper with the Clerk of Court using this Court's CM/ECF system, which will notify all counsel of record of such filing.

/s/ Clayton L. Bailey _____

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