

HOW EMPLOYEES' KNOWLEDGE OF EMPLOYMENT LAW AND  
PERCEIVED PROCEDURAL INJUSTICE AFFECT EMPLOYEES'  
INTENT TO SUE THEIR EMPLOYER

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This study investigated how the knowledge of employment law and an employee's perception of procedural justice affect an employee's willingness to sue his or her employer. Participants were 127 employees from various organizational sectors ranging in age, race, educational levels, and occupational levels. A significant negative correlation was found between knowledge of employment law and willingness to sue. A significant negative relationship was also found between knowledge of employment law and perceived procedural justice. While not significant, a negative correlation was found between perceived procedural justice and willingness to sue. Thus, knowledge of employment law is helpful and dangerous. On the helpful hand, more knowledge is associated an employee being less likely to sue, but on the other, dangerous hand, knowledge is also associated with greater employee awareness of injustice, which might increase his or her desire to sue. The results indicated that perceived procedural justice might be a suppressor variable that increases the ability of knowledge to predict willingness to sue. Overall, the findings start a foundation for further research in this area, which has been limited thus far.

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## CHAPTER 1

### INTRODUCTION

A recent article by Ellen Dannin (2009) describes an America where labor laws are less protective while unions are diminishing, and the rich corporate firms are to blame. She says "We live in a time in which corporate power is unrivaled, and the growth of that power parallels the decline of unions and working conditions" (Dannin, 2009, p. 139). But what about the employees themselves? How much do they even know about their rights and do they fight for them? The literature on employment law seeks to elucidate the main laws and guidelines that regulate what an organization can and cannot do in regards to employee rights. Employment law research focuses on the validity of organizational procedures used to promote, hire, select, appraise, and fire employees. Most of the articles either educate readers about the law or inform readers on how to avoid breaking the law. The problem with the history of employment law research is that little focus has been given to the amount of knowledge the employees have of the law. The primary goal of this proposal is to measure the amount of knowledge an employee has of his or her rights. However, because the number of employment laws is quite large, the topic will be narrowed down to what I found to be critical employment laws such as Title VII of the Civil Rights Act of 1964, important case laws such as *Griggs v. Duke Power* 1971, Executive Orders such as E.O 11246, and current issues in employment law such as the Lilly Ledbetter Fair Pay Act of 2009.

Because a little knowledge can be a dangerous thing, I expect to find an inverted-U curvilinear relationship between employee knowledge of the law and the probability of employee litigation. The reason I am not predicting a linear relationship is I expect to



find a parabola and not a straight line because the employees with little knowledge would be likely to sue, as would the employees who have a lot of knowledge. However the employees' who have a moderate amount of knowledge would not be likely to litigate. Also, because employees usually do not sue without reason, I also expect employees who perceive less procedural justice to be more likely to litigate. Thus, in addition to measuring employee knowledge of the law, measurements will also be collected on the employees' likelihood to file a claim against their organizations and on employee perceptions of procedural justice.

The twin purposes of this study are (1) to find out how much employees know about their rights and the law and (2) whether a greater amount of knowledge creates a predisposition to sue. In addition, the findings of this study could be used for developing ways of educating employees and human resource departments on employment law. A practical implication of this study will be to shed light on the reasoning behind employees' intent to sue. Companies will hopefully be able to use this information to further protect themselves from lawsuits, in addition to improving their human resource policies.

## CHAPTER 2

### REVIEW OF THE LITERATURE

This literature review provides the reader with background knowledge of what employees should know about employment law (a history of employment law, important case laws, Executive Orders, and recent trends in field). It also covers organizational justice and what research has found about its effect on employee behaviors, especially procedural justice. In addition, the cost and outcomes of litigation on organizational success will be discussed. At the end of this review of the literature, three hypotheses emerge.

Employment law sets minimal employment standards for all employees.

Employment laws set minimum wages, establish safety and health standards, provide old age assistance, require unemployment insurance, compensate industrial injuries, mandate child care and medical leave, and establish other minimal terms of employment (Stone, 2009, p. 146).

Although a great deal of research has been conducted on the topic of employment law, and the field is constantly growing, past research has failed to focus on the amount of knowledge employees have of their own rights. The purpose of this section is to provide a foundation of knowledge that employees should know about employment law. For example, what are the important case laws, what is the EEOC, what does the EEOC do, what are the nine protected classes? What are the main laws an employee should know about his or her own rights? What are the current issues in employment law? All of these questions will be answered throughout this section, in addition to explaining how these laws and polices affect corporate America. It is important to note that this literature review will only cover Federal American employment laws. That is not to say that

international law is not important, or that State laws are not important, it is just not the focus of this literature review. Since almost every employee is affected by anti-discrimination laws the focus of the literature has been narrowed to cover discrimination rights and protections.

### **Statutes**

A statute, sometimes called a statutory law, is a written law enacted by a legislative authority that governs. In addition, all statutes must be in harmony with the United States Constitution. For the most part, statutes are designed to prohibit or declare a policy. One of the most important statutes that influences employment law is Fair Labor Standards Act of 1938. The Act established a minimum wage, overtime standards, and regulations on child labor. Since its creation it has been amended multiple times, mostly on the concept of minimum wage. The most recent change was on July 24, 2009 when the federal minimum wage was raised to \$7.25 per hour (<http://www.dol.gov/dol/topic/wages/>). This law is not covered in the Employment Law Survey but is important to note since it did grant employees a wide range of rights.

Another very important statute that influences employment law is Title VII of the Civil Rights Act of 1964 (Gutman, Koppes, & Vodanovich, 2010). Most U.S. organizations are required to follow the regulations established from Title VII of the Civil Rights Act and its amendment in 1972. The impact of Title VII of the Civil Rights Act can be seen in all organizational human resource management (HRM) functions today. In summary, Title VII of the Civil Rights Act is similar to the foundation of a house; it is the base of most employment rights. A number of laws, polices, and practices stem from its guidelines. Title VII of the Civil Rights Act established the original five protected classes

that an organization cannot discriminate against in employment decisions: race, color, religion, sex, and national origin (Gutman et al., 2010).

The Civil Rights Act was amended in 1991. One of the reasons for the amendment was to codify a legal precedent that had been set in the 1971 *Griggs v. Duke Power* Supreme Court case. That precedent was changed in the *Antonio v. Wards Cove Packing* Supreme Court case of 1989. More detail on this story will be heard in the Case Law section.

After the passage of Title VII of the Civil Rights Act, a number of other acts increased the number of protected classes. In 1967, the Age Discrimination Act added employees over the age of 40 as a protected class (Faley, Kleiman, & Lengnick-Hall, 1984). The Vocational Rehabilitation Act of 1973 made disabled Americans a protected class (Gutman et al., 2010). This act was significantly amended in 1990 with the Americans with Disabilities Act to cover not just employee selection, but reasonable workplace accommodations, and consumers as well. Then in 2008, the Americans with Disabilities Act Amendments Act put into action new regulations on the definition of disability and how the definition of disability should be applied to individuals (<http://www.eeoc.gov/laws/statutes/ada.cfm>). Also in 2008, the Genetic Information Nondiscrimination Act was enacted. This made it illegal to discriminate based on genetic information (Laws and Guidance) (<http://www.eeoc.gov/laws/statutes/gina.cfm>). In conclusion, there are nine current protected classes: race, color, religion, sex, national origin, workers over 40, disabled employees, military veterans, and genetic information. Along with pregnancy, this is a protected class solely for women but will still be included in the employment law knowledge measurement

As for the litigations rights under Title VII of the Civil Rights Act, employees who claim intentional discrimination can request both a jury trial and legal relief (Gutman et al., 2010). Intentional discrimination means that the employer knew and purposely discriminated against the employee, this is also known as adverse disparate treatment (Roth, Bobko, & Switzer III, 2006). The second type of discrimination is called adverse disparate impact. This means that the employer discriminated, but did so by accident. Usually this means that the selection tool or method used was biased (Basnight & Wolkinson, 1977).

Title VII of the Civil Rights Act covers private, state/local, and federal entities with 15 or more employees(Gutman et al., 2010). Employees have 180 calendar days to file a discrimination law suit; however, if the state or local law prohibits the same employment discrimination then the time line is extended to 300 calendar days (<http://www.eeoc.gov/employees/timeliness.cfm>). However, when it is a claim regarding age discrimination, the state must have a law and also have a state agency or authority that enforces the law in order to be extended to 300 calendar days (<http://www.eeoc.gov/employees/timeliness.cfm>).

The remedies involved in Title VII of the Civil Rights Act are equitable relief and capped legal relief (Roesch, Hart, & Ogloff, 1999). This means the employee may seek back pay, lost benefits, fees for lawyers and experts, or even ask for reinstatement in the work place. The employees are also allowed to receive legal relief. This includes both compensatory (damages for suffering and pain) and punitive damages (to punish the employer for violations) (Faley et al., 1984). Employees should also know that it is illegal for an employer to discriminate against them because they have filed a charge of

discrimination with the EEOC. This is called retaliation and it is illegal. Lastly, Title VII of the Civil Rights Act is enforced by the EEOC and the Office of General Counsel who handles the litigation process. While statutes, such as Title VII of the Civil Rights Act, create protected classes, the Equal Employment Opportunity Commission is what protects and enforces organizations from discrimination in the workplace.

**EEOC and OFCCP.** There are two government agencies that are primarily responsible for enforcing equal employment opportunity laws. They are the Equal Employment Opportunity Commission (EEOC) and the Office of Federal Contract Compliance Program (OFCCP) (Faley, Kleiman, & Lengnick-Hall, 1984). The EEOC is the main enforcement agency for Title VII. The EEOC also enforces the rules for the Equal Pay Act, the Age Discrimination in Employment Act, the Vocational Rehabilitation Act of 1973, the Americans with Disabilities Act, and the Civil Rights Act of 1991 (Gutman et al., 2010). To enforce these rules the EEOC follows a five-step process to file and investigate claims. They will try and solve the problem without going to trial, if this cannot be done then they try a mediation meeting, and if that fails then they go to the courts (Fuller, Edelman, & Matuskik, 2000). Employees should understand that the EEOC is the agency that investigates discrimination claims. If discrimination occurred, the EEOC will attempt to resolve the problem. The EEOC also has the power to file a lawsuit to protect employee rights. These cases are handled by the Office of General Counsel.

The OFCCP was established to enforce equal employment opportunity laws within federally contracted organizations (Arvey, 1979). One of the differences between the EEOC and the OFCCP is that the OFCCP can cancel a company's contract with the

federal government if the organization fails to comply with equal employment opportunity laws. Overall the purpose of the EEOC and the OFCCP is to enforce the rules of equal employment opportunities. Without these agencies, there would be less pressure on companies to follow the procedures and policies established by the federal government.

A timeline of important employment law legislation appears in Appendix A. This timeline shows how congress constantly changes the law in response to society's views of what is just. Thus, it is important for organizations' human resource departments to keep up to date on the laws to avoid litigation. They must also keep up on new legislative statutes at the state level. If the laws are always changing, how much do employees' really know?

In conclusion, every employee may not need to know every law in detail, but I believe that education is a powerful tool, which could have an impact on the cost of unfounded claims to the EEOC and cases in the courts. Therefore it is important for employees to have a concept and basic understanding of Title VII of the Civil Rights Act, and the previously mentioned statutes which enacted the rights of the protected classes. Along with knowledge of how the EEOC and Office of General Counsel enforce these laws and the process an employee would undergo. The OFCCP and the process a federal contracted employee would undergo are also important for those who work in this field. If my research shows that knowledge impacts willingness to sue then the EEOC should see a reduction in invalid discrimination claims if companies did more employment law education. This of course would require further research that would involve collecting data on suits filed and the success rate.

## Case Law

Another important area of employment law is case law, also known as statutory interpretation. The history of these precedents has established policies and regulations for present practices. The beauty of the legal system is that when a statutory or regulatory law lacks a clear interpretation, someone may choose to contest the law in court. When this happens, judges must make their own interpretations of what the law means, which sets a precedent for future cases. Cases that are decided by the Supreme Court set precedents for the entire country.

An example of an important Supreme Court employment law case was *Griggs v. Duke Power* (1971). In 1971, organizations were still unclear on how to adhere to Title VII of the Civil Rights Act because it had not yet been interpreted by the courts. The *Griggs v. Duke Power* case forced the Supreme Court to decide how the law was to be used and enforced. Willie Griggs was an African-American employee working for Duke Power in Draper, North Carolina. Prior to Title VII of the Civil Rights Act, Duke Power only allowed African-American employees to work in the Labor Department, the lowest paying department. Duke Power had a company policy that required employees to have a high school diploma for initial hiring to Maintenance, Operations, and Laboratory positions, which at the time were held by an all white staff. After the passage of Title VII of the Civil Rights Act, Duke Power changed their company policy so that employees from Labor without a high school diploma could not transfer to another department, making it difficult for African-American employees to advance. It was later established that an employee could transfer if he or she had a high school diploma and could pass a Wonderlic Test whose purpose is to measure general mental ability. Employees' also had



to pass the Bennett Mechanical Comprehension Test, which was supposed to be used for predicting job performance in mechanical fields. Duke Power's employment practices resulted in Willie Griggs and 12 other African-American workers filing a class action suit against Duke Power. Griggs argued that the new rules were illegal discrimination because they made most of the African-Americans ineligible to be promoted to better paying jobs. One of the main issues with *Griggs v. Duke Power* (1971) is the concept of who has the burden of proof. Title VII of the Civil Rights Act did not clearly establish the burden of proof and this caused the *Griggs v. Duke Power* (1971) case to go all the way to the Supreme Court. The Fourth Circuit Court of Appeals ruled that the tests requirements did not reflect any initial discrimination and were, therefore, not unlawful under Title VII of the Civil Rights Act. This is important because it established that the employee had the burden of proof to show initial discrimination, then if that is met then the burden shifts to the employer to prove that the adverse action was not caused by discrimination. However, the U.S. Supreme Court determined that the tests themselves were not unlawful, but when the tests do not correlate to job skills or performance, then they are illegal. In addition, the Supreme Court established that the burden of proof was not on the employee to show discriminatory intent, but on the employer to demonstrate that hiring and advancement practices are not discriminatory. This created disparate impact, also called adverse impact, which is simply a legal term for unintentional discrimination. Overall an employee must show that discrimination occurred, but not that it was intentional.

Eighteen years later in the *Atonio v. Wards Cove Packing* (1989) case, the Supreme Court shifted the burden of proof back onto the plaintiff to show that

discriminatory effects occurred and to identify the policy or standard. Also, the plaintiff must prove that the practice was the sole cause of the alleged discrimination. The U.S. Congress reversed this decision again when it passed the Civil Rights Act of 1991 which made it so that an employee simply had the burden of proof to show that a policy or standard caused adverse impact, which was the precedent that had been established in the *Griggs v. Duke Power* case. This story provides an example of how case laws set precedents, but sometimes those precedents are broken, and other times those precedents are overridden by new laws or executive orders.

Another case law that evolved from the effects of the *Griggs v. Duke Power* (1971) verdict was the *Albemarle Paper Company v. Moody* (1975) case which was heard to clarify the requirements for using tests in the selection process. Moody was not one person but a group of present and former African-American employees who argued that pre-employment tests had discriminatory effects. In addition they confronted Albemarle Paper Company's seniority system. This story transpired in Albemarle Paper Company's factory in Roanoke Rapids, North Carolina. The case made it all the way up to the Supreme Court because the *Griggs v. Duke Power Co.* (1971) had not clearly established the requirements for testing in the selection process. In addition, the Supreme Court addressed the issue of what standards should be used to determine back pay awards to employees who experienced monetary loss as a result of racial discrimination. During the case the employees had the initial burden of proof to show that discrimination occurred. Next, Albemarle Paper Company presented validity evidence to support the use of their selection procedures. However, the Supreme Court ruled that Albemarle Paper Company's test had a poor technical quality of validation, and that they were unable to

effectively argue that its method was more valid than other options. The end result of the case established that not only must a test be valid, but companies must also seek the test with the least adverse impact. In addition, the Supreme Court ruled that back pay should be rewarded upon finding discrimination and that ordering employee back pay was a great motivation for employers to comply with Title VII of the Civil Rights Act.

In 1976 another clarification was made to Title VII of the Civil Rights Act in the *Washington v. Davis* (1976) case, where it was ruled that tests must be job-related to be considered permissible for screening applicants. In this case African-American applicants to the Washington, DC police force filed suit claiming the pre-employment test was resulting in adverse impact. What makes this case interesting is that it held the burden of proof required to establish a Title VII case is not the same required by the law to prove a violation of the Equal Protection Clause of the Fourteenth Amendment. The Equal Protection Clause states "no state shall...deny to any person within its jurisdiction the equal protection of the laws (U.S. Constitution, Amendment 14)." The Supreme Court decided on the following ruling.

As the Court of Appeals understood Title VII, employees or applicants proceeding under it need not concern themselves with the employer's possibly discriminatory purpose but instead may focus solely on the racially differential impact of the challenged hiring or promotion practices. This is not the constitutional rule. We have never held that the constitutional standard for adjudicating claims of invidious racial discrimination is identical to the standards applicable under Title VII, and we decline to do so today ( *Washington v. Davis*, 426 U.S. 229 pg. 238-39).

What can be concluded from this case is that the employees may have won if they had used Title VII of the Civil Rights Act, not the Constitution. In addition it allowed for employers to use a discriminatory measure if the measurement is correlated to job performance.

Due to the confusion created in the courtrooms over the interpretation of Title VII of the Civil Rights Act, Congress enacted the Civil Rights Act of 1991. The main purpose of the Act was to clarify the procedural and substantive rights in regards to employment discrimination cases. The Civil Rights Act of 1991 allows employees the right to have a jury trial for discrimination claims and allows for capped emotional distress damages that the jury may award to the plaintiff. As mentioned previously, it was the *Wards Cove Packing v. Atonio* case in 1989 that motivated Congress to pass the Civil Rights Act of 1991 because the rights of employees had been limited by the Supreme Court's decision.

By reviewing past court cases it is possible to understand how employee rights have been interpreted and applied by the courts; resulting in present case laws. Obviously the average employee is not going to be concerned with the history of all the past case laws; however I think that it is important to show an example of how the law can change and evolve over time. Concisely when it comes to case law employees should know a few of what I would consider the basic employee rights granted through statutory interpretation. Employees should know that companies must show that testing fairly measures the required knowledge or skills and that the tests have been validated in their application and use. Also, it is legal for layoffs to be determined by seniority even if there are discriminatory effects on minority employees. Current case law still requires that the selection process to adhere to the 4/5ths rule in regards to the selection of

minority applicants. This means that the selection ratio of the minority group has to be at least 80% of the selection ratio for the majority group, or vice versa.

In addition it is legal to allow preferential treatment based on race or gender in affirmative action plans which seek to reduce past discrimination. However, affirmative action plans must have goals and timetables. Once these goals are met, the plan must be eliminated. Quotas that exist in perpetuity are illegal. That in order to file a claim of harassment the employee must be a member of a statutorily protected class, subjected to unwelcome verbal or physical conduct related to his or her membership in that protected class, and that the conduct affected a term or condition of employment and/or had the purpose of unreasonably interfering with his or her work performance creating a intimidating, hostile or offensive work environment ([http://www.eeoc.gov/laws/types/sexual\\_harassment.cfm](http://www.eeoc.gov/laws/types/sexual_harassment.cfm)).

In *Burlington Industries, Inc V. Ellerth* (1998) and *Faragher v. City of Boca Raton* (1998) the Supreme Court clarified that employers are liable for unlawful harassment by supervisors. However employers can avoid liability if they took reasonable care to prevent and promptly correct any harassing behavior, and the employee unreasonably failed to take or apply any of the corrective opportunities provided by the employer ([http://www.eeoc.gov/laws/types/sexual\\_harassment.cfm](http://www.eeoc.gov/laws/types/sexual_harassment.cfm)). Lastly that statistical evidence is admissible in individual disparate treatment cases, but they are not always useful. The majority of the time, the employee will not have direct evidence of the discrimination, and therefore they will be required to prove discrimination using the McDonnell Douglas indirect method which came from the Supreme Court case of *McDonnell Douglas v. Green* (1973). First the employee establishes a prima facie case of

discrimination, second the employer must then show a legitimate nondiscriminatory reason for its actions, and last the employee must prove that the employer's stated reason is just a pretext to hide discrimination. Overall, past cases shed light on how employee rights are upheld by the court system and what the present law says about the rights of employees.

A timeline of important Supreme Court employment law cases appears in Appendix B. This timeline shows how the courts are constantly changing and evolving the law; making it important for organizations' human resource departments to keep up to date on the rulings to avoid litigation.

### **Executive Orders**

An Executive Order (E.O.) is the power granted to the President of the United States used to manage Federal Government operations. This means that Executive Orders only protect federal and federally contracted employees. The first executive order was written by George Washington on June 8, 1789. The purpose of the E.O. was to instruct and give power to the heads of departments to manage and account for issues within their departments. Since Washington's first order, executive orders have continued to launch or enhance policies on employment rights.

One of the biggest advancements for employee rights originated from President Lyndon B. Johnson's Executive Order 11246 in 1965. The order created the term Equal Opportunity Employment and applied Title VII of the Civil Rights Act to government contractors and subcontractors. In addition it required contractors with more than 50 employees to create affirmative action plans (E.O. 11246). However, President Johnson and Title VII of the Civil Rights Act should not get all the credit for the development of

the regulations. The E.O. evolved from at least four previous orders; President Franklin Roosevelt's 1941 E.O. 8802, President Harry Truman's 1948 E.O. 9981, President Eisenhower's 1953 E.O. 10479 and, President John F. Kennedy's 1961 E.O. 10925. The first was President Roosevelt's order, also known as the Fair Employment Act, which made it illegal for the national defense industry to discriminate applicants on race. Executive Order 8802 is the oldest form of employee protection of racial discrimination and occurred twenty three years before Title VII of the Civil Rights Act. Truman's policy added that the armed forces were prohibited from religious, racial, and ethnic discrimination. Eisenhower's order created the Government Contract Committee, whose purpose was to protect federal employees from discrimination. This was followed up with Kennedy's E.O. 10925, which created the Equal Employment Opportunities Commission, which is now the present enforcer for both private and public employee rights. The final result, as previously mentioned, was Johnson's E.O. 11246 which brought the past together and is the reason why we still have Equal Opportunity Employment today.

President Lyndon B. Johnson is also responsible for the executive order that protected federal and federal contract employees from gender discrimination. On October 13, 1967, he signed into action E.O. 11375 making sex a protected class in both private and public organizations. Two years later, on August 8, 1969, President Richard Nixon signed into action E.O. 11478 adding physical disabilities and age to the list that Johnson had previously created. President Bill Clinton also made additions to the order on May 28, 1998. Clinton's E.O. 13087 prohibited discrimination based on sexual orientation in the federal civilian workforce, the United Postal Service and the District of Columbia. However, Clinton excluded the CIA, National Security Agency, and the FBI from

protection from the order (E.O. 13087). Many may be surprised to find that President George Bush mandated that organizations agree to post a notice that explained the employees' rights on union memberships. Bush's E.O. 13201 also gave the government the authority to terminate contracts for contractors who do not follow the law.

Most recently, President Barack Obama signed three new Executive Orders on January 30, 2009. The Economy in Government Contracting Executive Order made it illegal for government agencies to seek reimbursement for money spent by the employer to influence employees' decision on whether to form unions or partake in collective bargaining (E.O. 13494). It is important that it is understood that the order does not put a stop to federal contractors from encouraging employees to stay union free, it only requires that they pay for the cost of such meetings. The second E.O., Notification of Employee Rights under Federal Labor Laws, established that federally contracted employers must formally notify employees of their rights granted by the National Labor Relations Act (NLRA) (E.O. 13496). The Act also made it a requirement for employers to follow all standards and orders put forth by the Secretary of Labor. In addition it mandates employers to post signs in noticeable places so that employees may learn about their rights under the NLRA. The third order, Nondisplacement of Qualified Workers under Service Contracts, demands that an employer who takes over a federal contract must first offer employment to previous employees before new applicants are hired (E.O. 13495). The idea is to guarantee that unionized workforces have the ability to sustain a change of ownership.

In conclusion the most important thing for an employee to know is that Executive Orders only impact federal and federally contracted employees unless otherwise stated.



The following rights are what I consider to be most relevant to present day employees.

The term Equal Opportunity Employment comes from an E.O. and that employees have the same rights granted by Title VII of the Civil Rights Act. They also have affirmative action rights if they work for a federal contractor with more than 50 employees.

Discrimination based on sexual orientation in the federal civilian workforce. Employers are required to post notice explaining union membership rights. If an organization takes over a federal contract the new agency must first offer previous employees employment before hiring new applicants. Taken as whole federal and federally contracted workers should just have a foundation of their basic rights at work.

A timeline of important Executive Orders related to employment appears in Appendix C. This timeline shows how the President adapts to changes in the law to make sure public employees enjoy the same safeguards as private employees. For human resource departments in government agencies or in organizations that do business with the government, it is important to keep up to date on these orders to avoid litigation.

### **Current Employment Law Issues**

Now that a history and foundation of employment law has been established, it is important to understand what is currently going on in this field. Five recent hot topics in employment law are employees' right to privacy, independent contractor or employee, family responsibility discrimination, equal pay between genders, and affirmative action plans.

**Privacy trends.** One of the new hot topics is an employee's right to privacy. More than 60% of mid and large employers responding to a survey indicated that they used one or more electronic means of employee surveillance and more than 90% of large

companies responded that they monitor email (Cohen & Cohen, 2007, p. 236).

Employees might find their companies observing their cell phones, smart cards, text messages, internet searches, and more (Cohen & Cohen, 2007). Another new trend found by Cohen (2007) is the monitoring of employee behaviors such as smoking restrictions, physical fitness, appearance requirements and even weight restrictions. This creates an issue in employment law on what is legal and what is not with regards to protecting an employee's privacy rights. It has been estimated that one-third of U.S. employees who routinely work on-line or use email at work are under continual surveillance (Muhl, 2003).

There are currently four federal statutes that protect employee privacy rights; Employee Polygraph Protection Act, Electronic Communications Privacy Act (EPPA), the Federal Wiretap Act of 1968 (ECPA), and the Fair Credit and Reporting Act (FCRA) (Cohen & Cohen, 2007). The EPPA has prohibited the use of polygraphs except in government positions, in the private sector for security guards, or jobs involved in protecting national security. Polygraphs can also be used in the private sector when an organizations has occurred a large economic loss, however there are rules and procedures in notifying employees who are asked to undergo the test (Cohen & Cohen, 2007). The ECPA prohibits unauthorized interception of email, and a variety of other communication devices (Cohen & Cohen, 2007). However, it is legal for an organization to read their employees emails when the email service is provided by the organization (Kovach, 2000). The FWA currently covers telephone conversations, email, and internet communications, however this act is easy to get around if employers gain consent from the employees (Cohen & Cohen, 2007). This means that the employees are giving up

their rights, most likely to avoid termination. The rights protected by the FCRA are very similar, the employee must give consent, however most employees will consent in order to get or keep their job. Overall, the four statutes, which are supposed to protect the employee from privacy invasion, actually seem to offer little protection. With the increase in organizations monitoring emails and behaviors this is an area of employment law of which employees should be aware.

**Independent contractor trends.** Another trend surrounds how employers use the definition of the term independent contractor. Most of the laws exclude independent contractors making it extremely difficult for them to have employment rights. For example, the National Labor Relations Act only provides protections for those individuals who fall within the statute's definition of an "employee." Individuals who work for multiple employers or the wrong kind of employer can easily fall outside the protection of the statute (Stone, 2009). "Furthermore, employees who have some supervisory authority over others, or who have managerial decisions delegated to them, are excluded from coverage" (Stone, 2009, p. 148). This is a huge problem, because this means that a lot of current "employees" are being excluded by outdated terms and definitions. Stone (2009) also found that the definition for independent contractors is now being used with janitors, temporary or part time workers and other low-paid jobs because companies have found this loophole. "Independent contractors are not covered by minimum wage, workers compensation, unemployment compensation, occupational safety and health laws, collective bargaining laws, social security disability, anti-discrimination laws" (Stone, 2009, p. 149). Overall, this is an area of employment law of which employees should be aware because they may soon find themselves as an

independent contractor with no employment rights. Therefore, it would be wise for employees to have a knowledge of what defines an independent contractor. The IRS states:

"An individual is an independent contractor if the payer has the right to control or direct only the result of the work and not what will be done and how it will be done. You are not an independent contractor if you perform services that can be controlled by an employer (what will be done and how it will be done). This applies even if you are given freedom of action. What matters is that the employer has the legal right to control the details of how the services are performed (<http://www.irs.gov/Businesses/Small-Businesses-&-Self-Employed/Independent-Contractor-Defined>)."

In short, it's easier said than done sometimes to determine who is and who is not an independent contractor, but the main point is the legal right of control.

**Caregiver trends.** An additional topic of interest revolves around balancing family life with employment. Some employees have been fired or denied promotions because they have been labeled as caregivers (Scott, 2007). The EEOC recently issued enforcement guidelines to help teach employers and employees about family responsibilities discrimination. An example of family responsibilities discrimination was cited Scotts (2007). "John is a good employee. I was pleased to see he applied for this promotion. Under ordinary circumstances he would be a shoe-in. Unfortunately, John has a disabled child at home. It is a very tragic situation but I know he just won't have the time to devote to the position he's applied for" (Scott, 2007, p. 36). This kind of behavior has caused a rise of lawsuits involving family responsibilities. Employees feel it is unfair

for them to be passed over for promotion, or fired because of their family responsibilities. "It appears that such caregiver discrimination, also called family responsibilities, has become the new battleground in employment claims" (Von Bergen, 2008, p. 178). It seems wise for employees to be aware of this problem, and to watch for future progression in rights for employees with family responsibilities. Currently, the only rights in the books come from the Family Medical Leave Act of 1993 and it only grants a person twelve weeks of unpaid leave without risking your job, once every year.

**Gender pay trends.** One of the current issues surrounding employment law stems from the court case *Ledbetter v. Goodyear Tire and Rubber Co.* (2007). The case involved Lilly Ledbetter who was paid significantly less than Goodyear Tire & Rubber Co. male employees. She was a supervisor working in Goodyear Tire and Rubber plant in Gadsden, Alabama. However, the reason her case was sent to the Supreme Court was in regards to the statute of limitations. Ledbetter did not file suit within 180 days of the first act of discrimination, but she argued the discrimination behavior happened prior but still affected her in the 180-day time period. However, the Supreme Court ruled that she could have, and should have sued when the discrimination in pay occurred. But the courts did leave the door open to employees if the employee was unable to discover the discrimination within the 180 days statute of limitations. This is another example where a case law caused Congress to step in and create a new legislation. In 2009, the Lilly Ledbetter Fair Pay Act was signed to reverse the Supreme Court's ruling. The new law states "that the 180-day statute of limitations for filing an equal pay lawsuit regarding pay discrimination resets with each new discriminatory paycheck" (Lilly Ledbetter Fair Pay Act of 2009).

This is a powerful change in the legal system, and the change of the statute of limitations is one for the record books and a law that minorities should be aware of, and one to keep an eye on as it is sure to end up in the courts.

While Congress has supported equal pay for equal work, the Supreme Court has taken a more conservative approach, as seen in the recent *Dukes v. Wal-Mart Stores, Inc.* (2011). The case started in 2000 with Betty Duke as the plaintiff arguing that Wal-Mart denied her training for promotion, and had sexual discriminated against her. Duke accused Wal-Mart of consistently paying women less than their male employees, and promoting men to higher positions at a faster rate than women. After seeking legal advice, the claim became a class action suit as other women came forward accusing Wal-Mart of gender bias discrimination. Over time the case grew to be the largest class action suit in the U.S. with 1.5 million plaintiffs. Wal-Mart came back and argued that gender discrimination was not a company policy and if it occurred it was an isolated event and not eligible for a class action suit. After ten years of going to the courts the case was heard on March 29, 2011 and the courts ruled in favor of Wal-Mart. The Supreme Court's decision was unanimous and stated that the plaintiffs' did not meet the commonality clause to be considered a class action suit. The managers in each store determine pay and promotions, which is done in a very subjective manner, not a Wal-Mart company policy. However, the Supreme Court did leave room for the plaintiffs to file individual claims. With the verdict being so fresh the effect is still to be seen, however on the one side it makes it difficult for a group of employees to meet the commonality clause, and at the same time it protects employers from being forced into settlements out of fear of the uncertainty in a massively large case. Overall, the case has

made it more difficult for employees to create a class action suit without being able to prove a specific job practice to which it can be tied. This is something employees should be aware of if they were going to group together to use the commonality clause.

**Affirmative action trends.** Changes to Michigan's 2006 ban on affirmative action plans are also a very current topic and will be most likely going to the Supreme Court in the near future. A federal appeals court recently ruled on July 1, 2011 that Michigan's Proposal 2, which was made part of their State Constitution, was unconstitutional and burdens racial minorities. Michigan's Proposal 2 banned the use of preferential treatment to any individual on the basis of race, sex, color, ethnicity, or national origin. This is interesting because on June 24, 2011 the 5th Circuit Court of Appeals refused to hear a case in regards to the University of Texas affirmative action plan which gives certain races a "plus factor."

**Current issues conclusion.** Overall, there is an overwhelming amount of literature on employment law and it is important to recall that most of the EEO comes from Title VII of the Civil Rights Act. The EEOC and OFCCP were established so the policies and guidelines established by the EEO and Title VII can be enforced. There are eight forms of discrimination: sex, religion, national origin, race, color, age, disability status, and genetic information. Five of them are protected by Title VII and the others by the ADAAA, ADEA, and GINA. There have been some major legal cases whose verdicts helped define the law and change it over time. In addition it is important to remember that employment law is constantly evolving and new areas are continuously emerging.

## **Organizational Justice**

Organizational justice was first defined by Greenberg in 1987 as "an individual's perception of and reaction to fairness in an organization" (pg. 9). Recently it has continued to develop popularity as an area of interest for researchers to study (Greenberg, 2007). This section is focused on defining and explaining the present concept of organizational justice and how it affects the workplace. Research on how the perception of injustice influences employee behavior will be examined. It is important to discuss the connections made between behavior and the perception of injustice because one of the ways an employee may retaliate against his or her company is to sue. Understanding organizational justice is necessary to value the impact injustice has on employee behaviors, such as litigation, and subsequent organizational costs. Four subtypes of organizational justice have been defined and researched over the years: distributive, procedural, interpersonal and informational justice.

**Distributive justice.** The first type of justice is distributive, which focuses on whether the rewards or outcomes are dispersed equally or fairly. It is the idea that the result is allocated justly, it is not the process by which this decision is made, but if the actual outcome is divided equitably (Gutman, 2010). Research conducted by Simmons (2011) showed that distributive injustice has an impact on absenteeism, burnout and family conflict. In a meta analyses, by Colquitt et al. (2001) reviewed the relationships between each form of justice and multiple employee behaviors such as withdraw behaviors, job satisfaction, trust, and organizational commitment. Distributive justice showed a - 0.50 negative correlation with withdraw behaviors and a strong .56 positive correlation was found for job satisfaction (Colquitt et al., 2001). Trust showed a .57



relationship, along with organizational commitment at .51 with distributive justice (Colquitt et al., 2001). Overall when employees experience distributive injustice they have a decrease in job satisfaction, commitment and trust which results in the employees withdraw behaviors.

**Procedural justice.** The second subtype of justice is procedural justice which concentrates on evaluating whether the course of action the organization took in deciding the end result was fair (Leventhal, 1980). Research has been done to measure the relationship between procedural justice and trust, job satisfaction, withdrawal behaviors, and organizational commitment.

Colquitt et al. (2001) found a .61 correlation between trust and procedural justice, as well as a .62 connection between job satisfaction and procedural justice. In addition organizational commitment had a .57 relationship were withdrawal behaviors had a - 0.46 correlation (Colquitt et al., 2001). Other research found that organizations with low levels of procedural justice had a positive relationship between rates of discrimination claims and lawsuits (Wallace, Edwards, Mondore and Finch, 2008). Another negative consequence that has been studied is the effect injustice in the workplace has on family life. Judge and Colquitt (2004) found that procedural justice is a predictor of work to family conflict. Moliner, Martinez-Tur, Peiro, Ramos, and Crapanzano (2008) showed that procedural justice had a negative correlation with burnout and injustice had a positive correlation with burnout. Furthermore research shows that procedural justice predicts organizational retaliation behavior. "Results suggests that reasonably fair procedures moderate an individual's retaliatory tendencies that would otherwise be maximized by the combination of having low levels of both distributive and interactional

justice" (Skarlicki & Folger, 1997, pg. 438). Procedural injustice seems to have similar effects as distributive injustice on employee behaviors. Employees experience a decrease in trust, job satisfaction, organizational commitment and an increased desire to partake in withdrawal and or retaliation behaviors.

Considering the behaviors that may result from low perceptions of procedural justice, it would seem that procedural justice and knowledge of the law combined would predict an employee's intent to sue. In addition considering the past evidence, it seems very likely that perception of procedural justice alone is a predictor of willingness to litigate.

**Informational justice.** The third type of justice is informational. Informational justice concentrates on the reasons or information given to employees to explain why certain procedures were used, or how the organization decided to distribute outcomes (Colquitt, Conlon, Wesson, Porter & NY, 2001). It shouldn't be a surprise that informational justice and trust have the strongest relationship, with a .51 correlation found between the two (Colquitt et al., 2001). Most of the informational justice research found that informational injustice do not have a significant impact on employee behaviors.

**Interpersonal justice.** The interpersonal form of organizational justice concentrates on the level of respect, politeness, and dignity the employee is given by the management personnel involved in deciding and implementing the final decision or outcome (Colquitt et al., 2001). Interpersonal justice can be summed up by the question "Was the employee treated with consideration?" Some of the negative consequences of interpersonal justice was found in the research done by Judge and Colquitt (2004) who

discovered that interpersonal injustice may cause conflict between work and family conflict. Even so, interpersonal justice seems to have little effect on employee behavior; the strongest connection Colquitt et al. (2001) found in their meta analyses was a .35 correlation with job satisfaction. Overall it seems that interpersonal justice is important, but it does not have the same effect on employee behaviors as distributive and procedural injustice.

**Consequences of perceived injustice.** Multiple negative consequences can occur when employees' perceive organizational injustice; all of which are harmful to organizational success. Researchers have found significant relationships between injustice and absenteeism, burnout, intent to quit, job satisfaction and more (Colquitt et al., 2001). Another consequence is employees' health. Lang, Bliese, Lang, and Adler (2011) argued that researching the correlation between the employees' perception of injustice is significant for understanding the relationship between an employee's perception of justice and an employee's organizational health. However, their research concluded:

First, previous justice research has often described organizational injustice as having strong negative consequences for employee well-being. The present research suggests that the link between justice and well-being is either weak in field settings or substantially more complex than frequently portrayed ( Lang et al., 2011, p. 613).

Conversely Cropanzano and Wright (2011) found that perceptions of distributive injustice were the largest factor in predicting employee health and those large amounts of injustice will result in absenteeism. Cropanzano and Wrights research concluded:

The unfairness-absenteeism model suggests two important conclusions. First, injustice can harm the health of its victims (e.g., Siegrist, 1996). Second, this harm may rebound back on the organization, as the resulting poor health can engender greater absenteeism and perhaps other problems as well (Cohen, Charash & Spector, 2001; Colquitt et al., 2001). There do not seem to be many strong beneficiaries of injustice (Cropanzano & Benson, 2011, p. 208).

Withdrawal behaviors have also been observed in research by Maslach, Schaufeli and Leiter (2001) who found that burnout was a response to constant stressors in the workplace, such as injustice. Follow up research done by Maslach and Leiter (2008) continued to support the theory that injustice and burnout are related. Organizational injustice can also lead to a decrease in affective commitment; this then impacts an employee's intent to quit, job satisfaction, and performance (Simmons, 2011); but distributive and informational are not. Because every type of justice plays a role in an employee's perception of fairness, each one is important in understanding the relationship between perceived injustice and intent to litigate.

**Organizational justice conclusion.** As shown by the cited research all types of injustice influence employee behaviors. However, some research indicates that distributive and procedural injustices have a more dominate impact on employee withdrawal behaviors (Colquitt, 2007; Cropanzano & Benson, 2011; Lang et al., 2011; Siegrist, 1996). Overall, it is important to understand that each type of organizational justice has its place in understanding an employee's perception and response to injustice. Employees' seem to place more significance on distributive and procedural justice as seen in the research results of Colquitt et al. (2001) meta-analysis. Current and past research

continues to support that injustice impacts absenteeism, job satisfaction, withdrawal behaviors, trust, intent to quit, performance, and employee commitment (Colquitt, 2007; Cropanzano & Benson, 2011; Lang et al., 2011; Siegrist, 1996) But also that the definition and concept of organizational justice is constantly growing; around 50 articles are published every year on the topic in organizational behavior journals (Colquitt, 2007).

Because of the research findings, I believe that the perception of injustice will correlate to employees' knowledge of the law, understanding the impact injustice plays on employee behaviors is significant. As stated previously, this may be influential to organizational success because if an employee is misperceiving injustice due to a lack of knowledge then employment law education could decrease injustice and withdrawal behaviors. There is no research to my knowledge that measures an employee's knowledge of his/her employment rights. In general, because knowledge of the law may influence perceptions of justice, understanding organizational justice is necessary to value the possible impact knowledge may have on employee withdrawal behaviors and intent to litigate. Since research on the correlations between all four types of justice and employee behaviors show strong negative correlations between justice and employee withdrawal behaviors (Colquitt et al., 2001) I expect that an employee's perception of organizational justice might also influence his or her intent to litigate. Taken as a whole, the concept of organizational justice plays an important role in understanding how employees' react or respond to injustice in the workplace.

### **Litigation**

The EEOC has a section on their website that provides the statistics on the total number of charge receipts filed and resolved under the statutes enforced by the EEOC

(Title VII, ADA, ADEA, EPA, and GINA); which is where the following information was found (<http://www.eeoc.gov/laws/statutes/index.cfm>). In the last 14 years, 928,438 Title VII discrimination suits have been filed through the EEOC (<http://www.eeoc.gov/eeoc/statistics/enforcement/index.cfmv>). 547,131 suits alone were filed under the Americans with Disabilities Act (<http://www.eeoc.gov/eeoc/statistics/enforcement/ada.cfm>). The smallest amount of suits was filed under the Age Discrimination in Employment Act (N = 271,985) (<http://www.eeoc.gov/eeoc/statistics/enforcement/index.cfmv>). In total there were 1,266,154 employees who fought for their employment rights with help from the EEOC; that is an average of 90,440 suits every year. Over the last 14 years, 1,266,154 individual employees had suits filed by the EEOC based on discrimination. That is quite a large number of employees experiencing injustice in the workplace, and employees who experience workplace injustice are likely to engage in a number of other negative employee behaviors in addition to litigation. The employees who sue may be just the tip of the iceberg, as fellow employees may experience similar injustices but decide not to make the big decision to take on their employer.

From the past statistics, out of the 1,266,154 employees, 833,521 were considered to have no reasonable cause to file a discrimination suit, based on the EEOC's findings. I presume that some of this high volume is due to a little knowledge being a dangerous thing; employees' with a moderate level of knowledge act on it. However, recent research by King, Dunleavy, Morgan, Dunleavy, Jaffer and Elder (2011) argued that some of the no reasonable causes truly did have a reasonable cause to pursue their case. For example, in the case of *Canady v. Wal-Mart Stores* (2006), the plaintiff testified that his boss call him the "n" word, in addition to calling other black employees "lawn jockeys" (King et

al., 2011). The case was settled in favor of the organization and the EEOC responded by saying "the court's ruling of insufficient evidence of pervasive or severe harassment was based on standards that were too restricted, but the court denied rehearing" (King et al., 2011, pg.6). This means that the courts felt the standards were not overly restricted and that the plaintiff did not meet the burden of proof requirements to file a claim, however the EEOC disagreed. The EEOC stated that "EEOC's determination of no reasonable cause to believe that discrimination occurred based upon evidence obtained in investigation. The charging party may exercise the right to bring private court action" (<http://www.eeoc.gov/eeoc/statistics/enforcement/definitions.cfm>).

118,416 companies that faced EEOC claims of discrimination chose to settle instead of facing the courtroom and the public. For those organizations that settled an average of two hundred and seventy four million dollars a year was spent on employee monetary benefits as a result of discrimination suits filed by the EEOC. It is important to note that the monetary benefits reported by EEOC do not include monetary benefits obtained through litigation. Mountain Top Institute (2006) found that American corporations have spent over 1.5 billion dollars on the process of settling discrimination cases from 1984-2005. As for specific corporations, Wal-Mart, Inc. and Home Depot, U.S.A., Inc. have the highest number of individual settlements (Mountain Top Institute, 2006). Other large corporations are also spending big money on some of the largest discrimination settlements: Texaco, Inc. (\$176 million), Public Super Markets, Inc. (\$81.2 million), Morgan Stanley & Co., Inc. (\$54 million), Abercrombie & Fitch Stores, Inc. (\$47 million), Rent-A-Center Inc. (\$47 million), GMC (\$42.5 million), and

Mitsubishi Motor Manufacturing of America, Inc (\$34 million) (Mountain Top Institute, 2006).

There is also proof from the EEOC data that employees are learning about their rights somehow because there have already been 446 claims filed with the EEOC in 2010 under GINA which was passed in 2008 (<http://www.eeoc.gov/eeoc/statistics/enforcement/genetic.cfm>). The only way that the claims would have been filled is if the employees knew of the law, and their rights, so it does show hope that the employees are aware of the new rights granted to them. Companies should consider the impact that 1,266,154 employees experiencing injustice over the past 14 years would have on their success. Because of the possible impact that knowledge may have on organizational justice and litigation, this research is aimed at helping organizations discover if educating employees on their rights will help decrease the amount of illegitimate claims filed. Or, it may also increase the amount of real claims being filed through the EEOC. In addition this research may also find the motives for why employees pursue litigation. Overall, it is important to address the correlation between knowledge and litigation because it could save organizations a lot of money, while also helping companies and individuals to see the value in employment law education.

### **Main Hypotheses**

The employment law knowledge literature is limited to how to protect employers from the law, and mostly a foundation of statutes, case laws, and executive orders that make up the rights of employees. Most of the research has been focused on the validity of organizational procedures used to promote, hire, select, appraise, and fire employees. The problem here is that it leaves an entire area of knowledge untouched, and it could be a



valuable piece of information that organizations could use to reduce litigation and settlement costs in regards to employee rights. Therefore, the purpose of this study is to measure the amount of knowledge the employees' have of the law, and how that knowledge affects their willingness to sue their employer.

H1: The relationship between employees' employment law knowledge and their willingness to litigate will be in the shape of an inverted-U.

The logic behind this hypothesis is not entirely empirical. Rather, it is based on the old adage that a little knowledge can be a dangerous thing. Employees with no knowledge may be too intimidated to sue and employees with a good deal of knowledge may know better than to sue because of the difficulty the employee has to prove discrimination occurred. The employees in the middle may feel emboldened to sue without being aware of their limitations. However, there are others who support that employees should be educated to avoid litigation. Schachner (1996) wrote "To control the financial and public relations damage from an employment practices lawsuit, the entire organization must understand the major laws that regulate employment practices and what can happen when companies violate them. (pg. 15 )" In addition something has to be causing the sixty-five percent of the individual charges filed by the EEOC being ruled to have no reasonable cause (<http://www.eeoc.gov/eeoc/statistics/enforcement/all.cfm>). Based on these findings, I came to the assumption that knowledge will be a factor in an employee's willingness to sue.

H2: The relationship between procedural justice and intent to litigate will be negative.

The logic behind this hypothesis is empirical. It is based on the finding that low procedural justice seems to be related to a number of negative employee attitudes and behaviors. Perhaps intent to litigate will be one more to add to the list. For example researchers found that organizations with low levels of procedural justice had a positive relationship between rates of discrimination claims and lawsuits (Wallace et al. 2008). In another study Colquitt et al. (2001) found a .61 correlation between trust and procedural justice and research done by Moliner et al. (2008) obtained a negative correlation with employee burnout. There has also been additional research to support a negative correlation between procedural justice and an employee's intent to quit, withdrawal and retaliation behaviors. (Colquitt, et al., 2001; Simmons, 2011; Skarlicki & Folger, 1997).

H3: Employment law knowledge and procedural justice will combine to better predict intent to litigate than either variable alone.

The logic behind this hypothesis flows from the previous two hypotheses. Research shows a negative correlation between procedural justice and burnout, withdrawal behaviors, and retaliation (Colquitt et al., 2001; Skarlicki & Folger, 1997; and Moliner et al., 2008), it may also be possible that a decrease in justice combined with the power of knowledge would increase a person's likelihood of pursuing litigation. This would also coincide with Wallace et al. (2008) findings that organizations with low levels of procedural justice had a positive relationship between rates of discrimination claims and lawsuits. In addition, if employment law knowledge and procedural justice are related to litigation intent and they are not highly correlated with one another, then they should be able to better predict litigation intent when combined. Based on the findings from past research and my own assumptions, I expect to find that employees who feel

low procedural justice and have a moderate amount of employment law knowledge will have the strongest intent to sue their companies.

### **Exploratory Analyses**

In the last fifteen years we have seen more rights and enforcement in laws that protect women and minorities. We have also seen a large increase in the number of people seeking a higher education, such as a bachelors or a masters degree. Based on these facts and the following assumptions, the following hypotheses were formulated:

H4: Employment law knowledge and employee education level will have a positive relationship.

I am assuming that the more education people have, the more likely that they will know more about their employment rights. Langdon (1996) did a study to measure how much management and union leaders know about employment law, he found that formal education increased knowledge of the law. However, most research was focused on the employers knowledge of the law, and not the employee. Overall, I am guessing that people who have taken the time to further their education, will also have taken the time to educate themselves on their employment rights.

H5: Employment law knowledge and employees' organizational level will have a positive correlation.

The higher a position employees hold, the more likely they are to have a higher education and, therefore, an increased amount of employment law knowledge. While there is no research to support this concept, there is research that supports the relationship employee education and job performance. I was unable to find research to support this exact concept. However, the Bureau of Labor Statistics reported that the median weekly

earnings in 2011 were higher for those employees with a higher level of education ([www.bls.gov/opub/ted/2011/ted\\_20110721.htm](http://www.bls.gov/opub/ted/2011/ted_20110721.htm)). This information can then be used to come to the conclusion that if those employees are making more, they most likely have a higher position. Bringing the concept full circle, if education level affects organizational status and educational level affects knowledge of the law, then organizational status should also be positively correlated to employment law knowledge.

H6: Age and employment law knowledge will have a positive relationship.

My logic is that the older you get, the more aware you become of your rights, simply based on experience in life and the workplace. There is no research that supports this concept, however, there is the concept that age leads to experience, and experience leads to knowledge.

H7: Those individuals working for a nonprofit organization will have a lower score on willingness to sue than those individuals working for other organizations.

I expect employers of non profits to have higher ethical values and treat their employees fairly, thus, their employees will be less likely to sue. This is another hypothesis that lacks previous research.

H8: White men will have a higher perception of justice than any other group.

This is based on historic trends in discrimination and employment right violations. According to Nielsen and Nelson (2005), whites experience less discrimination in the workplace. In addition, the data collected from the Equal Employment Opportunity Commission shows that minorities file more discrimination claims than whites (Hirsh, 2009). Hirsh and Lyons (2010) research found that African American and Hispanic workers were more likely to perceive discrimination on the job than white workers.

Overall it seems that since white men are less likely to experience discrimination their perception of justice should be the highest.

## CHAPTER 3

### METHOD

The purpose of this study was to gather information on the amount of knowledge an employee has of his or her rights combined with perception of procedural justice affect an employee's willingness to sue. A survey composed of Employment Law, Organizational Justice, and Intent to Litigate questions was utilized to gain an understanding of the relationships between the three variables. The survey used only quantitative questions and was composed of multiple choice questions, true/false questions, and Likert scales. Snowball sampling techniques were used to collect a cross sample of employees from a diverse range of organizations. The Employment Law Knowledge 26-item test was revised based on the feedback of three subject matter experts. Sweeney and McFarlin's (1993) 13-item procedural justice subscale was used to measure employees' perception of procedural justice in their organization. Participants willingness to litigate was measured using a 5-item scale, which was modified based on the suggestions from three subject matter experts.

#### **Participants**

One hundred and twenty seven adults voluntarily responded to the survey. Roughly 250 surveys were distributed to working individuals, however, only 127 replied (51% response rate). Participants included 71 females and 56 males, with ages spanning from 19 to 72, with an average age of 37 ( $SD = 13.77$ ). The following demographic questions were asked: gender, age, race, organizational sector, organizational level, and level of education see Appendix G. Participants consisted of 116 White/Non-Hispanics, 4 Hispanic/Latinos, 5 African Americans, and 2 "Others." Five of the participants were

owners and, therefore, employers themselves. Sixteen were in middle management, 18 were professionals, 39 were blue-collar employees, and 26 were office or clerical workers. Participants differed in educational levels (high school = 19; Associate's degree or some college = 13; Bachelor's degree = 67; Master's degree = 17; Doctoral degree = 11). The participants also varied in the organizational sector in which they worked: publicly owned for-profit (17), nonprofit (16), privately owned for-profit (84), government (9), and other organizational sectors (1).

### **Measurements**

Three subject matter experts (SME) were used to conduct a content validity study in view of the fact that two of the instruments were created by the researcher: Knowledge of Employment Law and Intent to Litigate. Each SME was given directions to review the instruments and provide expert feedback and suggestions, along with recommendations for adding or removing questions. Each SME provided a detailed written summary of what she/he considered to be important and necessary for the validity of the instruments, this information was then used to alter and improve the instruments.

**Knowledge of employment law.** A 25-item test was developed from research and the feedback of the SMEs (Appendix D). The test captured three dimensions of knowledge: legislation, case laws, and executive orders. Participants were told to choose the correct answer using multiple choice and true/false questions. When the 25 items were combined into a single scale, no internal consistency was found (coefficient alpha = -0.05). However because the construct being measured is multidimensional, a low internal consistency was expected. When a varimax factor analysis was computed, the

variables failed to converge into a solution. Thus, it appears that knowledge of one item is not related to knowledge of another item.

**Intent to litigate.** To measure an employee's willingness to litigate, a five-item Likert-type scale was developed from research and the suggestions of the three SMEs (Appendix E). Participants were instructed to indicate how much they agreed or disagreed with the given actions. Participants were given numbers from 1 (strongly disagree) to 5 (strongly agree) to rate their actions. Items 2 and 3 were reverse scored, this was adjusted when the data was analyzed. A high score on the scale was supposed to indicate a greater intention to sue one's organization. However, the internal consistency of the five items was low (coefficient alpha = - 0.07.). When I correlated the five items with one another, the strongest correlation was - 0.13.

**Procedural justice.** Sweeney and McFarlin's (1993) 13-item procedural justice subscale was used to measure procedural justice (Appendix F). It captures the employees' perceived fairness of procedures within their organization. Participants were asked to mark the extent to which they agreed or disagreed with the statements concerning procedural justice on a five-point Likert scale ranging from 1 (strongly disagree) to 5 (strongly agree). Items 2, 4, 5, and 7-13 were scored normally. Items 1, 3, and 6 were reversed scored. The internal consistency for Sweeney and McFarlin's (1997) procedural justice subscale was high (coefficient alpha = .84).

## **Procedure**

Prior to collecting any data, IRB approval was granted to conduct the study (Appendix H). Next family members and friends were trained to administer surveys to various employees in the general population. Ten family members were then given 25



survey packets to dispense to co-workers or friends they knew were employed. Every packet included an informed consent form (see Appendix I), a demographic information form, a knowledge of employment law questionnaire, a willingness to litigate scale survey, and Sweeney and McFarlin's procedural justice scale. Before completing the survey, participants were given and asked to sign the Informed Consent document and return the bottom portion of the consent form. Each recruiter had the participants fill out the multiple surveys. Once finished, recruiters informed the participants to return the survey materials with the signed consent form into the provided envelope. The survey packets were then collected from the ten family members after all surveys had been completed and returned. The same method was used to administer survey packets by the researcher. No research was collected without each participant being informed of his/her rights and guaranteed that all information gathered would be kept confidential. To further ensure this, participants were instructed not to give any personal identifiable information (address, phone number, name, employer, etc.). The resulting responses acquired from the surveys were then used to calculate participants' knowledge of employment law, perception of procedural justice, and willingness to litigate.

## CHAPTER 4

### RESULTS

For the current study, survey research was collected and used to investigate how an employee's perception of procedural justice and the amount of knowledge an employee possesses of employment rights affect his or hers willingness to sue his or her employer. The study variables included also demographic variables.

#### **Main Hypotheses**

**Hypothesis 1.** It was predicted that employment law knowledge would have an inverted-U curvilinear relationship with willingness to litigate. To test this hypothesis, a simple regression with a quadratic equation was used. The regression analysis found an  $R^2$  value of .03. A Pearson's  $r$  was also computed to determine the linear relationship between the two variables. A negative relationship was found between the employees' employment law knowledge and their willingness to litigate ( $r = - 0.18, p < .05$ ). Thus, the linear relationship did just as good a job as the quadratic relationship. This finding shows that the more knowledge an employee has about his or her rights then the less likely that employee is to litigate.

Because willingness to litigate had such a low internal consistency, I also examined the relationships between employment law knowledge and each item of the willingness to litigate measure. The first four items were not significant ( $r = .01, r = .09, r = - 0.06$ , and  $r = - 0.16$ , respectively). However, the relationship with the fifth item was significant ( $r = - 0.20, p < .05$ ). The fifth item was "I would file but I cannot afford an attorney." Thus, employees who know more employment law are more likely to disagree with this statement. In other words, they are not in a hurry to sue, even if they did have the money. It seems knowledge may act as a break on this facet of litigious action.

**Hypothesis 2.** It was hypothesized that an employee's perception of procedural justice in the workplace would have a negative relationship with willingness to litigate. To test this hypothesis, a Pearson's  $r$  was computed. Although the correlation was non-significant ( $r = -0.15, p > .05$ ), it was in the hypothesized direction. Therefore, the second hypothesis was not supported.

Because willingness to litigate had such a low internal consistency, I also examined the relationships between procedural justice in the workplace and each item of the willingness to litigate measure. The relationships with items two through five were not significant ( $r = -0.03, r = -0.04, r = -0.09$ , and  $r = -0.07$ , respectively). However, the relationship with the first item was significant ( $r = -0.21, p < .05$ ). The first item was "I intend to sue my company within the next 12 months." Thus, employees who perceive more procedural justice in the workplace are more likely to disagree with this statement. In other words, they are less likely to sue. It seems that procedural justice may act as a break on this facet of litigious action.

**Hypothesis 3.** It was hypothesized that employment law knowledge and procedural justice would combine to predict willingness to sue better than either variable would predict willingness to sue alone. To test this hypothesis a regression analysis was performed. When employment law knowledge and perceived procedural justice were entered into the regression equation to predict willingness to sue, the  $R^2$  value was .06, which is greater than the  $R^2$  values of knowledge of employment law (.03) and perceived procedural justice (.02) for predicting willingness to sue by themselves. The slopes for both variables were significantly negative. These suggest that employees who perceive

greater procedural justice and have more knowledge of employment law will be less willing to sue.

### **Exploratory Hypotheses**

**Hypothesis 4.** It was hypothesized that employment law knowledge and employee educational level would have a positive relationship. This was tested using a Pearson's  $r$ . Although a positive correlation was found ( $r = .07, p > .05$ ), this relationship was not significant. Unless a person's advanced degree is related to employment law, I suppose more education does not translate into greater knowledge of one's rights.

**Hypothesis 5.** It was hypothesized that employment law knowledge and the employee's organizational level would have a positive relationship. To evaluate this hypothesis, an ANOVA was calculated and it was significant ( $F(5,120) = 3.25, p < .05$ ). A planned comparison was performed in which executives and owners were expected to know the most, followed by middle managers and professionals, with blue collar and clerical knowing the least. This planned comparison was not significant. The planned comparison was followed up with a Tukey post hoc analysis. I found only one significant group difference. Those with the most knowledge, the executives ( $M = 15.1$ ), knew significantly more than those with the least knowledge, blue collar workers ( $M = 13.1$ ). However, for a 25-item test, this does not seem like a difference (two questions) with great practical significance.

**Hypothesis 6.** It was hypothesized that age and employment law knowledge would have a positive relationship. A Pearson's  $r$  was used. A significant positive relationship was found between age and employment law knowledge, which supports the hypothesis ( $r = .21, p < .05$ ).

**Hypothesis 7.** It was hypothesized that those working in for-profit organizations (either privately owned or publically owned) would have a higher willingness to litigate score than those working in nonprofit organizations (either nonprofits or government). This hypothesis was tested using an ANOVA and it was nonsignificant ( $F(5,121) = 1.78, p > .05$ ).

**Hypothesis 8.** It was hypothesized that White men will have a higher perception of justice than any other group simply based on historic trends in discrimination and employment right violations. To test this hypothesis I ran a 2x2 factor ANOVA with the two factors being sex (male and female) and race (non-minority and minority). I expected to find a significant interaction. There were no main effects for sex or race, but there was a significant interaction ( $F(3,1) = 5.12, p < .05$ ). When examining the interaction, I found that my hypothesis was not supported. Interestingly, minority men perceived the greatest procedural justice ( $M = 49.5$ ), followed by non-minority women ( $M = 46.7$ ), followed by non-minority men ( $M = 45.8$ ), with minority women at the bottom ( $M = 44.4$

### **Additional Analyses**

One of the goals of this study was to find out how much knowledge employees have of their rights in the workplace. An examination of the employment law items revealed that the average employee in this study knew roughly 14 of the 25 items. The best performer had a score of 19 and the worst performer had a score of 9. Table 1 depicts which items were easiest and most difficult. For example, the easiest item by far

Table 1

*Percentage Correct for Employment Law Items*

<b>Item</b>	<b>Percentage Correct</b>
1. How many weeks of unpaid leave must an employer let an employee take to care for a sick family member?	21%
2. Does the Federal government have the power to cancel an organization's contract with the Federal government if the company fails to follow the Equal Employment Opportunity laws?	28%
3. If an employer unintentionally discriminates in an employment decision, the company is given a chance to provide a remedy. If the employer continues to discriminate afterwards, then the company can be found guilty.	18%
4. Seniority systems that discriminate against women or minorities are illegal.	8%
5. Which of the following questions is illegal to ask during an employment interview?	87%
6. What is the minimum age you must be to be protected by the Age Discrimination in Employment Act?	21%

Table 1 (continued)

*Percentage Correct for Employment Law Items*

<b>Item</b>	<b>Percentage Correct</b>
7. Which of the following disabilities is NOT protected by the Equal Employment Opportunity Commission?	65%
8. The Equal Employment Opportunity Commission prohibits employers from requesting, requiring, or purchasing genetic information?	34%
9. Of the following job application questions, which one is illegal?	58%
10. How many employees must an organization employ to be covered by the Equal Employment Opportunity Commission?	35%
11. When are employers allowed to intercept employee emails?	81%
12. An employer may request that job applicants take a polygraph when the job involves _____.	100%
13. May an employer discriminate against those who join a labor union?	84%

Table 1 (continued)

*Percentage Correct for Employment Law Items*

<b>Item</b>	<b>Percentage Correct</b>
14. How long do Federal employees have to file a discrimination claim?	23%
15. If an organization discriminates against you because of your sexual orientation, is that illegal?	14%
16. Employers who do NOT pay the same wages to men and women in the same job who perform equal work under similar conditions are in violation of the law	54%
17. If you were a pregnant woman, it would be legal for a company to NOT hire you because you would be taking time off soon and that might create undue hardship for the organization.	63%
18. Employers are required by law to reasonably accommodate an applicant's or an employee's religious practices, unless doing so would cause undue hardship on the organization's success.	69%
19. It is illegal for an organization to retaliate against an applicant or an employee because the individual filed a charge of discrimination or participated in an employment discrimination lawsuit or an employment discrimination investigation.	90%



Table 1 (continued)

*Percentage Correct for Employment Law Items*

<b>Item</b>	<b>Percentage Correct</b>
21. An employer must reasonably accommodate an employee with a disability.	85%
22. An individual's family medical history can be used as a determining factor when hiring an employee?	91%
23. You have to give your consent for reports to be provided to employers about your credit history.	85%
24. Independent contractors have the same rights as regular employees and they are protected by the National Labor Relation Act.	62%
25. It is legal for an employer to discriminate against an applicant or an employee because he or she is considered a family caregiver.	27%

was the twelfth, "An employer may request that job applicants take a polygraph when the job involves \_\_\_\_\_," with everyone getting the correct answer, national security.

The 22nd item, "An individual's family medical history can be used as a determining factor when hiring an employee," was also easy with 91% getting the correct answer. On the other hand, only 8% of the employees knew the correct answer, false, to the fourth item, "Seniority systems that discriminate against women or minorities are illegal." This was the most difficult item on the test.

I asked the employees "Of the 25 questions you were just asked, approximately what percentage do you think you answered correctly?" The average response was 46%. This is pretty accurate and humble considering the actual average was 56%. However, the employees were unable to guess their own prowess in that the correlation between their actual score and their predicted score was - 0.06.

Overall the survey consisted of 71 female and 56 male employees. Men scored higher on the employment knowledge survey with an average of 14 out of 25 items answered correct (56%). Women were not that far behind with 13 out of 25 items answered correct (52%). Fittingly, men predicted that they would answer 50% of the items correctly and women predicted that they would answer 45% of the items correctly.

## CHAPTER 5

### DISCUSSION

#### **Main Hypotheses**

Results failed to support the first hypothesis, which predicted that employment law knowledge and intent to litigate would have a curvilinear relationship in the form of an inverted U. Instead, I found a significant inverse relationship between employment law knowledge and intent to litigate. In other words, the more employees know about employment law, the less likely they are to litigate against their employer. This was especially true of the fifth litigation question, “I would file but I cannot afford an attorney.” Employees with less knowledge of employment law were more likely to agree with this question. These findings are consistent with Schachner's (1996) theory that everyone within the organization should have an understanding of employment laws to avoid litigation.

Initially, I had assumed that “a little knowledge is a dangerous thing.” In other words, I thought if a person was very unknowledgeable, he or she would be too intimidated to sue. Only those with a modicum of knowledge would have the audacity to sue, without being aware of the difficulties. However, it seems the least knowledgeable are the most likely to want to sue. The results suggest that employees' who do not know the law would rather file a claim with the EEOC and have the EEOC determine if the incident was illegal, rather than do research on their rights first and then file a claim if they still feel those rights were violated. This is supported by the EEOC statistics, showing that 65% of the individual charge filings were found to have no reasonable cause, as determined by the EEOC investigation. It is unknown whether the entire 65%

had suits filed based on a lack of knowledge, but I do think that the odds are that some, if not a majority, lacked knowledge of their employment rights. In addition, research done by Dunning, Johnson, Ehrlinger, and Kruger (2003) found that people who are incompetent are more likely to overestimate their knowledge, abilities, or performance. The main reason for this is because they are unaware of what they do not know. This could be another reason why employees who lack knowledge are more eager to litigate over those employees who have a higher level of knowledge of employment law. As Confucius said, "real knowledge is to know the extent of one's ignorance." So instead of a little knowledge being a dangerous thing, perhaps ignorance is the dangerous thing.

For the second hypothesis, I assumed that an employee's perception of procedural justice would be inversely related to his or her willingness to sue his or her employer. This was based on a combination of past research which has found both positive and negative correlations between an employee's perception of procedural justice and employee behaviors. Colquitt et al.'s (2001) research showed that procedural justice had positive correlations with organizational commitment, trust, and job satisfaction and negative correlations with withdrawal behaviors. In addition, Moliner et al.'s (2008) research found that burnout and procedural justice had a negative relationship. Furthermore, Skarlicki and Folger's (1997) results showed that procedural justice significantly affects an employee's retaliatory tendencies. Contrary to what was expected, perception of procedural justice was not significantly related to intent to sue, however, the correlation was in the predicted direction ( $r = -0.15, p > .05$ ).

Perhaps intent to sue an employer is such a drastic action that it has a pretty high threshold and procedural injustice alone is not enough to push an employee over the

edge. In other words, an employee's sense of his or her procedural justice being violated has to be fairly high before the employee starts thinking about litigation. Or it is also possible that an employee must experience a particular combination of organizational injustices before seeking litigation. Skarlicki and Folger (1997), found that procedural justice alone was able to reduce retaliation tendencies that otherwise would have been high because of low distributive and interactional levels. I assumed from this that low levels of procedural alone would have the opposite effect, however, it seems more likely now that an employee may need to experience both procedural injustice and distributive or interaction injustice to increase an employee's intent to litigate.

Overall, even though procedural injustice did not have a significant relationship with intent to litigate, it has been valuable in predicting other employee behaviors. Therefore, I thought that procedural injustice might predict willingness to sue when it is combined with other variables, such as the amount of knowledge an employee has of his or her rights.

Although my two initial hypotheses were not supported, when I combined employment law knowledge and perception of procedural justice, not only did they significantly predict intent to litigate, but procedural justice was able to explain additional unique variance in intent to litigate over and above that of employment law knowledge. With both variables, the beta weight was negative. Thus, my third hypothesis was supported. In other words, when an employee perceives his or her company to be violating procedural justice and that employee does not know much about employment law; it has the potential to produce a dangerous cocktail of litigation intention. These results are consistent with prior studies which found that organizations with high levels of

procedural justice had low rates of retaliation behavior and discrimination claims (Wallace et al., 2008; Skarlicki & Folger, 1997). Furthermore, this is in line with Schachner's (1996) theory that educating the entire organization can help control the financial burden of litigation.

In conclusion, if these relationships are causal, then it would be practical to educate a workforce about employment laws. Skarlicki and Folger (1997) found that even when distributive and interactional justice were low, high procedural justice could still reduce retaliation behaviors.

One particularly intriguing finding was how much employees actually knew about their rights. Dannin (2009) mentioned, "We live in a time in which corporate power is unrivaled, and the growth of that power parallels the decline of unions and working conditions" (p. 139). Which begged me to ask the question, what do employees know about their rights? It turns out employees knew 56% of the questions on the employment law knowledge test. Not surprisingly, they knew more about certain protections than others. Consequently there may be some specific areas of the law on which employers may want to educate their employees. While there are other areas that most employees seem to already know.

Every employee surveyed knew that it was legal under current legislation for an employee involved with national security to undergo a polygraph test. Another interesting finding was that the majority of the participants also knew that it is illegal to retaliate against an employee for filing a discrimination claim with the EEOC and that an employer cannot discriminate against an employee for joining a labor union. Overall it

was found that employee's may know the protections of the law, but not necessarily how those protections are enforced.

Findings focused on the American Disability Act found that most employees (85%) knew that it is required by law to accommodate an employee with a disability. On the other hand, they were not so clear on which physical ailments qualified an employee as disabled under the law. Only 65% correctly identified epilepsy, diabetes, and multiple sclerosis as disabilities covered by the ADA. In the past 15 years, organizations spent around 800 million dollars in settlements regarding ADA claims filed with the EEOC (<http://www.eeoc.gov/eeoc/statistics/enforcement/ada-charges.cfm>). Taking into account the nature of the just mentioned survey questions and the significant inverse relationship found between employment law knowledge and intent to litigate in hypothesis one, it is possible that employees may not be filing claims because they lack knowledge of the law itself, but because the employees lack an understanding of how the law is applied. Further research on this matter is necessary, since the EEOC determined that 64% of claims filed in the last 15 years in regards to ADA discrimination had no reasonable cause (<http://www.eeoc.gov/eeoc/statistics/enforcement/ada-charges.cfm>). In conclusion, employees may understand that it is illegal to discriminate against a disabled employee, but if they cannot decipher which physical ailments qualify as a disability, they may file an erroneous claim with the EEOC.

Employers may also want to educate employees further on the rights granted in the Age Discrimination in Employment Act. Over the past 15 years, this law has costs employers 929 million dollars in settlements (<http://www.eeoc.gov/eeoc/statistics/enforcement/adea.cfm>). Yet only 21% of the employees knew the minimum age in order

to be protected by the ADEA. More than half of the individual claims filed with the EEOC resulted in a no reasonable cause ruling. Employers may want to focus employee education on the Age Discrimination Act since it was also found that companies may want to educate employees on the legalities behind seniority systems. Only 8% of the participants knew that seniority systems that unintentionally discriminate against women or minorities are legal.

Furthermore, Title VII of the 1964 Civil Rights Act is another area on which employers may want to educate employees, since employers have lost around 2.4 billion dollars settling Title VII of the 1964 Civil Rights Act claims filed with the EEOC over the last 15 years (<http://www.eeoc.gov/eeoc/statistics/enforcement/titlevii.cfm>). Perhaps this is not surprising considering the broad spectrum of protected classes Title VII of the 1964 Civil Rights Act. Additionally, only 69% of the employees knew that employers are required to accommodate for religious practices, unless doing so would cause undue hardship on the organization's success. According to the EEOC, 59% of the claims filed under Title VII of the 1964 Civil Rights Act were determined to have no reasonable cause (<http://www.eeoc.gov/eeoc/statistics/enforcement/titlevii.cfm>). This seems to be another good example of how a lack of knowledge could lead to more litigation.

As I examined the employees' knowledge strengths and weaknesses, the following question reoccurred to me, "Are there areas of knowledge for which it would be cost effective for an employer to educate employees on the law?" To answer this question, I examined the relationships between each question and intent to sue. These results can be viewed in Table 2. As you can see, 15 of the items had negative correlations with intent to litigate which is consistent with hypothesis one. However, only



one item had a significant relationship with intent to sue, item 9. Item 9 asked "of the following job application questions, which one is illegal?" The employees who knew the correct answer to this question (what year did you graduate high school?) were less likely to want to sue their employer. In other words, had the employer asked one of the legal questions such as "Are you over the age of 18?" then the applicants may assume that the question is violating his or her rights and file a claim with the EEOC.

Considering the findings it seems that employers may want to focus their attention on the American with Disabilities Act, the Age Discrimination in Employment Act and Title VII of the Civil Rights Act of 1964. These laws cost companies the most in litigation and also seemed to be areas that employee's struggled to fully understand. However, the only significant relationship with intent to sue found was in regards to item 9.

### **Exploratory Hypotheses**

In addition to the main hypotheses, I had some supplemental hypotheses about the relationships between certain demographic variables and my main variables. For example, I expected employment law knowledge and employee educational level to have a positive relationship. Although a positive correlation was found, it was not significant. Perhaps a person's advanced degree is not related greater knowledge of one's rights unless it is a law degree, or perhaps an I-O psychology degree.

Table 2

*Point Biserial Correlations between Employment Law Items and Intent to Sue*

<b>Item</b>	<b>Point Biserial Correlation</b>
1. How many weeks of unpaid leave must an employer let an employee take to care for a sick family member?	.04
2. Does the Federal government have the power to cancel an organization's contract with the Federal government if the company fails to follow the Equal Employment Opportunity laws?	- .03
3. If an employer unintentionally discriminates in an employment decision, the company is given a chance to provide a remedy. If the employer continues to discriminate afterwards, then the company can be found guilty.	- .16
4. Seniority systems that discriminate against women or minorities are illegal.	- .06
5. Which of the following questions is illegal to ask during an employment interview?	- .04
6. What is the minimum age you must be to be protected by the Age Discrimination in Employment Act?	.08

Table 2 (continued)

*Point Biserial Correlations between Employment Law Items and Intent to Sue*

<b>Item</b>	<b>Point Biserial Correlation</b>
7. Which of the following disabilities is NOT protected by the Equal Employment Opportunity Commission?	- .07
8. The Equal Employment Opportunity Commission prohibits employers from requesting, requiring, or purchasing genetic information?	.01
9. Of the following job application questions, which one is illegal?	- .26*
10. How many employees must an organization employ to be covered by the Equal Employment Opportunity Commission?	- .06
11. When are employers allowed to intercept employee emails?	- .01
12. An employer may request that job applicants take a polygraph when the job involves _____.	N/A
13. May an employer discriminate against those who join a labor union?	- .14

Table 2 (continued)

*Point Biserial Correlations between Employment Law Items and Intent to Sue*

<b>Item</b>	<b>Point Biserial Correlation</b>
14. How long do Federal employees have to file a discrimination claim?	- .09
15. If an organization discriminates against you because of your sexual orientation, is that illegal?	- .13
16. Employers who do NOT pay the same wages to men and women in the same job who perform equal work under similar conditions are in violation of the law	- .04
17. If you were a pregnant woman, it would be legal for a company to NOT hire you because you would be taking time off soon and that might create undue hardship for the organization.	- .11
18. Employers are required by law to reasonably accommodate an applicant's or an employee's religious practices, unless doing so would cause undue hardship on the organization's success.	.12
19. It is illegal for an organization to retaliate against an applicant or an employee because the individual filed a charge of discrimination or participated in an employment discrimination lawsuit or an employment discrimination investigation.	- .10

Table 2 (continued)

*Point Biserial Correlations between Employment Law Items and Intent to Sue*

<b>Item</b>	<b>Point Biserial Correlation</b>
20. If a company that makes only men's clothing advertises for a fashion model for its catalogue, it would be illegal to ask for only male models because that would discriminate against women .	- .07
21. An employer must reasonably accommodate an employee with a disability.	.10
22. An individual's family medical history can be used as a determining factor when hiring an employee?	.01
23. You have to give your consent for reports to be provided to employers about your credit history.	.10
24. Independent contractors have the same rights as regular employees and they are protected by the National Labor Relation Act.	.02
25. It is legal for an employer to discriminate against an applicant or an employee because he or she is considered a family caregiver.	.07

\*  $p < .01$

I expected employment law knowledge and the employee's organizational level to have a positive relationship. I did find executives ( $M = 15.1$ ) knew significantly more than blue collar workers ( $M = 13.1$ ), but for a 25-item test, a two-question difference did not seem to have a great deal of practical significance. It made sense that individuals higher in the organization would know more because (1) they tend to have more education and (2) they have to be more concerned about legal repercussions of their decisions because they make more personnel type decisions than blue collar workers on the line.

I expected employment law knowledge and age to have a positive relationship and I found a significant positive relationship. However, age was not related to perceptions of justice in the workplace, but the correlation was positive. On the other hand, a non-significant negative relationship was found between age and intent to litigate. Also, although not significant, older employees seem to be slightly less likely to feel injustice and slightly less likely to sue.

I expected that those working in for-profit organizations (either privately owned or publically owned) would have a higher willingness to litigate score than those working in nonprofit organizations (either nonprofits or government). This hypothesis was not supported. My reasoning was based on my own stereotypes about people who work for nonprofit organizations being less motivated by individual concerns and more motivated by helping the organization meet its altruistic mission. One ramification of this finding for the leaders of nonprofit organizations is that they need to be on guard against litigation just as much as leaders of for-profit organizations.

I expected white men to have a higher perception of justice than any other group simply based on historic trends in discrimination and employment right violations. While there were no main effects for sex or race, there was a significant interaction. However, my hypothesis was not supported. It was the minority men who perceived the greatest procedural justice, followed by non-minority women, followed by non-minority men, with minority women at the bottom. Before too much is made of this interesting finding, it must be noted that there were only six minority men and five minority women in my study.

While men and women did not differ on their overall knowledge of employment rights, one intriguing finding that emerged when examining how the sexes differed on their knowledge of employment rights, 63% of the men knew employers who do not pay the same wages to men and women in the same job who perform equal work under similar conditions are in violation of the law, whereas only 48% of the women answered this question correctly. It is interesting that men were more aware of equal pay rights than women. Men and women also did not differ on their perceptions of procedural justice or their intent to sue their employer. This suggests that men and women are equally capable of being angry at their employer and suing their employer.

### **Practical Implications**

The current study sheds light on how an employee's knowledge of his or her rights and perception of procedural justice can influence his or her intent to litigate. There was evidence that employers who educate their employees on their rights may see a reduction in suits filed (if causal conclusions could be drawn from correlational results). It is a good idea for employers to educate their employees for a number of reasons.

Employers spend an average of 32,431 dollars per claim on employee monetary benefits as a result of discrimination suits filed by the EEOC (<http://www.eeoc.gov/eeoc/statistics/enforcement/all.cfm>). The most expensive settlements according to the EEOC's statistics are those involving race, age, and disability discrimination. Since the results showed employees lacked understanding of laws regarding age and disabilities, employers might want to focus on educating employees in these areas. Companies may also want to consider doing their own survey and modeling their curriculum from the results. Thus, depending on the size of the organization and the cost of training, a little education could go a long way if knowledge of employment law is causally related to litigation intent.

This concept of knowledge and justice as tools to decrease litigation are important for organizations to consider because the result of injustice can be very costly as it is related to destructive employee attitudes and behaviors. These include a decrease in trust, job satisfaction, organizational commitment, intent to stay, and job performance, and an increase in withdrawal behaviors, burnout, and retaliation behaviors (Simmons, 2011; Colquitt et al., 2001; Moliner et al., 2008; and Skarlicki & Folger, 1997) and perhaps intent to litigate.

### **Limitations**

In spite of finding significant results, the study did have limitations that should be considered in future research. For example, the sample size was small and convenient. This limits confidence in generalizing the results to the general population. The sample only consisted of 127 participants of which 116 were white/non-Hispanics. In addition, a better explanation of professions and organizational sectors might have created more



accurate results. I am not confident that everyone selected the option that best fit their profession or organizational sector. This could be solved by gathering a larger sample size with a random sample of American organizations. Also, a more detailed survey would help.

The litigation instrument was another big limitation found within the study. It had low internal consistency. It is possible that intent to litigate is a multidimensional variable. More research is needed to investigate the factor structure of this construct.

Another instrument limitation to the study was the scope of laws covered on the employment knowledge instrument. It also had low internal consistency. However, because the construct is multidimensional, a low internal consistency was expected. This could be solved by narrowing the survey to a single employment right with more questions focused on understanding different aspects of the law.

Not studying other types of organizational justice also turned out to be a limitation. Even though past research had found that strong procedural justice could reduce an employee's intent to quit, withdrawal and retaliation behaviors (Colquitt, et al., 2001; Simmons, 2011; Skarlicki & Folger, 1997) this study's results showed procedural injustice alone was not enough to increase those behaviors. On the other hand, procedural injustice did combine with a lack of employment knowledge to increase one's intent to sue. It is unfortunate that other organizational justices were not studied to see how other types of injustice influenced intent to litigate. This could be solved simply by adding instruments to the survey to include measurements of distributive, informational and interpersonal justice.

Lastly, one of the biggest limitations is that the majority of this research was correlational. This is a problem because correlation does not equal causation. There is no way to be confident, without additional research, that another unstudied variable did not cause the results. Additionally there is the possibility of reverse causality; meaning that it is unknown which variable caused the other variable to occur.

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## Appendix A

### Employment Laws Timeline

## EMPLOYMENT LAW TIMELINE

<b>Statute</b>	<b>Year</b>	<b>Description</b>
Civil Rights Act	1866	Established that every U.S. citizen is protected by the law for white citizens and creating the first racial discrimination statute.
National Labor Relations Act (NLRA)	1935	Created employment rights on labor unions and limits employer reactions.
Fair Labor Standards Act (FLSA)	1938	Established regulations on child labor laws, work hours, overtime, minimum wage, and unions.
Labor Management Relations Act	1947	Prohibited wildcat strikes, solidarity or political strikes, secondary boycotts, secondary and mass picketing, closed shops, jurisdictional strikes, and monetary donations by unions to federal political campaigns. Also granted the right of the Federal government to obtain legal strikebreaking injunctions if the strike could affect national health or safety.
Labor-Management Reporting and Disclosure Act (LMRDA)	1959	Protects employee union funds and established standards for unions to follow.

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Federal Wiretap Act (FWA)	1961	Regulates the interception of electronic communications within the workplace without providing "necessary incident" or consent from employee.
Equal Pay Act (EPA)	1963	Established equal pay for identical work.
Civil Rights Act	1964	Created Title VII which prohibits discrimination based on race, color, sex, religion, or national origin.
Age Discrimination in Employment Act (ADEA)	1967	Prohibits employment discrimination against people over the age of 40.
Occupational Safety and Health Act	1970	Regulates standards for employers to ensure safe working conditions and a healthy working environment.
Fair Credit and Reporting Act (FCRA)	1970	Requires employers to get consent to check an applicant's credit history and regulates the use of consumer credit information. This was originally Title VI of the Consumer Credit Protection Act.

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Occupational Safety and Health Act	1970	Regulates standards for employers to ensure safe working conditions and a healthy working environment.
Equal Employment Opportunity Act	1972	The act gave authority to the EEOC to file legal suits in federal court. Making it possible to enforce accountability in matters of discrimination on the job.
Vocational Rehabilitation Act	1973	Prohibits Federal government and contractor employees from disability discrimination.
Vietnam-Era Veterans Readjustment Act	1974	Required affirmative action plans in Federal contracts or subcontracts of \$25,000 or more to hire disabled veterans, Vietnam Veterans or those who have served active duty in a war that has been authorized a campaign badge.
Employee Retirement Income Security Act (ERISA)	1974	Established protection for employee retirement plans.
Federal Employees' Compensation Act (FECA)	1974	Created compensation programs for the death or disability of a federal employee if hurt on the job.
Pregnancy Discrimination Act	1978	Forbids employers to discriminate in hiring or firing against pregnant women.

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Consolidated Omnibus Budget Reconciliation Act	1985	Mandates that employers give some employees the ability to continue health insurance coverage after leaving employment.
Immigration Reform and Control Act	1986	Made it illegal for certain employers to fire or refuse to hire an individual on the basis of that person's national origin or citizenship.
Employee Polygraph Protection Act (EPPA)	1988	Prohibits the use of polygraphs except in government positions, security guards, or national security.
Drug Free Workplace Act	1988	Requires all Federal grantees and some Federal contractors to agree that they will provide a drug-free workplace as a prerequisite to receiving contract or grant from a Federal agency.
Worker Adjustment and Retraining Notification Act (WARN)	1988	Requires most employers with 100 or more employees to provide sixty-calendar day advance notification of plant closings and mass layoffs of employees.
American with Disabilities Act (ADA)	1990	Forbids discrimination based on the federal definition of disability.

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Civil Rights Act	1991	Gave employees the right to a jury trial on discrimination claims and capped emotional distress damages.
Electronic Communications Privacy Act (ECPA)	1991	Work emails have no expectation of privacy
Immigration Reform and Control Act (IRCA)	1993	Prohibits employers from hiring unauthorized immigrants.
Family and Medical Leave Act (FMLA)	1993	Established that employees had the right to job-protected unpaid leave caused by serious health condition, or to care for a new child, or an ill family member.
Uniformed Services Employment and Reemployment Act (USERA)	1994	Created reemployment rights for national guard or reserve service members after deployment and prohibits discrimination based on military service or obligation.
Notification and Federal Antidiscrimination and Retaliation Act	2002	Gives protection to Federal government employee from reprisal for reporting discrimination or whistle blowing.

Sarbanes-Oxley Act	2002	Allows employees of publicly-traded organizations to report fraud against shareholders to the authorities without fear of retaliation.
Fair Minimum Wage Act	2007	Established that effective July 24, 2009, the federal minimum wage is \$7.25 per hour.
Genetic Information Nondiscrimination Act (GINA)	2008	Determined that it is illegal to discriminate against employees or applicants because of genetic information.
Lilly Ledbetter Fair Pay Act	2009	Clarified that a discriminatory compensation or other practice that is unlawful occurs each time compensation is paid. Therefore the 180-day statute of limitations for filing an equal-pay lawsuit resets with each new discriminatory paycheck
Dodd-Frank Act	2010	Protects employees who "blow the whistle" from retaliation for reporting employer violations.



Appendix B  
Case Law Timeline

## CASE LAW TIMELINE

Bradwell v. State of Illinois	1873	Exclusion of women from employment. The right to profession is not covered by the Fourteenth Amendment
Civil Rights Cases	1883	Congress does not have the power to outlaw racial discrimination by private organizations
Bunting v. Oregon	1917	Ten-hour workday maximum for both men and women
Adkins v. Children's Hospital	1923	Federal minimum wage for women was unconstitutional
West Coast Hotel Co. v. Parrish	1937	Minimum wage for women is constitutional because it was used to protect health and ability to support themselves
Hague v. Committee for Industrial Organization	1939	Fourth Amendment allows a reasonable expectation of privacy in the workplace
Griggs v. Duke Power Co.	1971	Unintentional discrimination is illegal
Reed v. Reed	1971	Women are protected by Fourteenth Amendment

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McDonnell Douglas Corp. v. Green	1973	Standard of proof set in employment discrimination cases
Cleveland Board of Education v. LaFleur	1974	Over restrictive maternity leave violates Fourteenth Amendment
National League of Cities v. Usery	1976	Congress cannot establish a minimum wage. State only has the authority
Washington v. Davis	1976	Plaintiff must prove discriminatory motive
Arlington Heights v. Metropolitan Housing Corp.	1977	Equal Protection Clause only protects intentional discrimination
Regents of the University of California v. Bakke	1978	Affirmative Action is constitutional, but quota systems are unconstitutional. Programs should mimic Harvard admissions program
United Steel Workers of America v. Weber	1979	Civil Rights Act of 1964 does not prohibit favoring women and minorities
Fullilove v. Klutznick	1980	Congress may use constitutional power to remedy past discrimination

Connick v. Myers	1983	Public employees have free speech rights at work
Garcia v. San Antonio MTA	1985	Congress has power to establish a federal minimum wage and overtime pay
Meritor Savings Bank v. Vinson	1986	Hostile work environment is sexual harassment
O'Connor v. Ortega	1987	Established Fourth Amendment rights for public employees
City of Richmond v. J.A. Croson Co.	1989	Minority set-aside programs are unconstitutional
Wards Cove Packing Co. v. Atonio	1989	Employer must provide evidence of business justification in order to intentionally discriminate
Adarand Constructors, Inc. v. Pena	1995	All racial classifications must meet "strict scrutiny" standards set by the court
Toyota Motor Manufacturing v. Williams	2002	Defined "substantially impairs" under ADA

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Grutter v. Bollinger	2003	University of Michigan Law admissions program can give preferential treatment on race because it is only a "potential plus"
Arbaugh v. Y&H Corporation	2006	Title VII requirement of fifteen or more employees is not a jurisdictional requirement
Ledbetter v. Goodyear Tire	2007	Established statute of limitations on employment discrimination claims
Gomez-Perez v. Potter	2008	Federal employees are protected from retaliation after filing on age discrimination claim
14 Penn Plaza LLC v. Pyett	2009	Employer and Union can require employee discrimination claims to be resolved in arbitration instead of court
Crawford v. Nashville	2009	Employees involved in Sexual Harassment investigation are protected against retaliation

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Ricci v. DeStafano	2009	An employer may not engage in intentional discrimination for the purpose of avoiding unintentional discrimination without strong evidence that not engaging would cause unintentional discrimination liability
NASA v. Nelson	2011	Federal government and contractors have the right to background check low-risk employees
Dukes v. Wal-Mart Stores, Inc	2011	Courts ruled that employees must meet the commonality clause to be considered a class action; this is the largest class action suit to go the Courts with 1.5 million plaintiffs

## Appendix C

### Executive Orders Timeline

## EXECUTIVE ORDER TIMELINE

<b>Executive Order</b>	<b>Year</b>	<b>Description</b>
E.O. 8802	1941	Prohibited the national defense industry from discriminating based on race
E.O. 9981	1948	Forbids the armed forces from religious, racial, or ethnic discrimination
E.O. 10479	1953	Created the Government Contract Committee to protect federal employees from discrimination
E.O. 10925	1961	Established the Equal Employment Opportunities Commission
E.O. 11246	1965	Created the Equal Opportunity Employment and applied CRA of 1964 to federal contractors and subcontractors
E.O. 11375	1967	Protects private and public employees from gender discrimination
E.O. 11478	1969	Forbids federal or federal contractors from discriminating based on a disability



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E.O. 13087	1998	Prohibits discrimination based on sexual orientation in the federal civilian workforce, the United Postal Service, and the District of Columbia
E.O. 13201	2001	Requires organizations to post a notice explaining employee union membership rights and gave government authority to terminate contracts as a means of enforcement
E.O. 13494	2009	Illegal for government agencies to seek reimbursement of money used to influence union memberships
E.O. 13495	2009	Established that employers who take over a federal contract must first offer employment to previous employees
E.O. 13496	2009	Mandates employers to notify employees of the rights granted by the NLRA

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Appendix D

Knowledge of Employment Law Instrument

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## Employment Knowledge Assessment

### Multiple Choice Section

Instructions: Please read each question carefully. Circle the response you believe is the best answer.

1. How many weeks of unpaid leave must an employer let an employee take to care for a sick family member?

- a) 4 weeks
- b) 8 weeks
- c) 10 weeks
- d) 12 weeks

2. Does the Federal government have the power to cancel an organization's contract with the Federal government if the company fails to follow the Equal Employment Opportunity laws?

- a) No
- b) Yes, with the very first violation
- c) Yes, but only on the organization's second violation
- d) Yes, but only on the organization's third violation

3. If an employer unintentionally discriminates in an employment decision, the company is given a chance to provide a remedy. If the employer continues to discriminate afterwards, then the company can be found guilty.

- a) True
- b) False

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4. Seniority systems that discriminate against women or minorities are illegal.

- a) True
- b) False
- c) True in the public sector, but not in the private sector

5. Which of the following questions is illegal to ask during an employment interview?

- a) What languages do you speak, read or write in fluently?
- b) Will you be able to perform all of the specific duties and requirements of the position?
- c) Are you eligible to work in the United States?
- d) Are you married?

6. What is the minimum age you must be to be protected by the Age Discrimination in Employment Act?

- a) 16
- b) 40
- c) 55
- d) 65

7. Which of the following disabilities is NOT protected by the Equal Employment Opportunity Commission?

- a) epilepsy
- b) diabetes
- c) multiple sclerosis
- d) pregnancy

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8. The Equal Employment Opportunity Commission prohibits employers from requesting, requiring, or purchasing genetic information?

- a) True
- b) True, but only when it is a proven business necessity
- c) True, but only if it is a government position
- d) False

9. Of the following job application questions, which one is illegal?

- a) Are you over the age of 18?
- b) Are you a veteran?
- c) What year did you graduate high school?
- d) When will you be able to start work?

10. How many employees must an organization employ to be covered by the Equal Employment Opportunity Commission?

- a) 5
- b) 15
- c) 25
- d) 50

11. When are employers allowed to intercept employee emails?

- a) when the email service is provided by the organization
- b) if the organization has incurred a large financial loss
- c) if the organization has a reasonable suspicion of inappropriate use
- d) never

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12. An employer may request that job applicants take a polygraph when the job involves \_\_\_\_\_ .

- a) working with children
- b) working with the elderly
- c) national security interests
- d) working with the disabled

13. May an employer discriminate against those who join a labor union?

- a) Yes
- b) Yes, but only if it is a private organization
- c) Yes, but only if it is a government or government contracted facility
- d) No

14. How long do Federal employees have to file a discrimination claim?

- a) 45 days
- b) 60 days
- c) 90 days
- d) 180 days

15. If an organization discriminates against you because of your sexual orientation, is that illegal?

- a) Yes
  - b) No
-

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16. Employers who do NOT pay the same wages to men and women in the same job who perform equal work under similar conditions are in violation of the law.

- a) Always True
- b) True, unless there are differences in merit or seniority
- c) False, it is the employer's decision to make

17. If you were a pregnant woman, it would be legal for a company to NOT hire you because you would be taking time off soon and that might create undue hardship for the organization.

- a) True
- b) False

18. Employers are required by law to reasonably accommodate an applicant's or an employee's religious practices, unless doing so would cause undue hardship on the organization's success.

- a) True
- b) False

19. It is illegal for an organization to retaliate against an applicant or an employee because the individual filed a charge of discrimination or participated in an employment discrimination lawsuit or an employment discrimination investigation.

- a) True
- b) False

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20. If a company that makes only men's clothing advertises for a fashion model for its catalogue, it would be illegal to ask for only male models because that would discriminate against women

a) True

b) False

21. An employer must reasonably accommodate an employee with a disability.

a) True

b) False

22. An individual's family medical history can be used as a determining factor when hiring an employee?

a) True

b) False

23. You have to give your consent for reports to be provided to employers about your credit history.

a) True

b) False

24. Independent contractors have the same rights as regular employees and they are protected by the National Labor Relation Act.

a) True

b) False

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25. It is legal for an employer to discriminate against an applicant or an employee because he or she is considered a family caregiver.

- a) True
- b) False

26. Of the 25 questions you were just asked, approximately what percentage do you think you answered correctly?

- |         |         |
|---------|---------|
| a) 0%   | g) 60%  |
| b) 10%  | h) 70%  |
| c) 20%  | i) 80%  |
| d) 30%  | j) 90%  |
| e) 40 % | k) 100% |
| f) 50%  |         |
-

Appendix E

Intent to Litigate Instrument

### Intent to Litigate

**Directions:** Please rate how strongly you agree or disagree with each of the following statements by circling the appropriate box.

	Strongly Disagree	Disagree	Undecided	Agree	Strongly Agree
<b>1. I intend to sue my company within the next 12 months?</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>
<b>2. I would never sue my company?</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>
<b>3. Fear of losing the respect of my coworkers would keep me from suing my company, even if I had a strong case.</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>
<b>4. If I felt a coworkers rights were being violated by our company, I would encourage him or her to sue.</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>
<b>5. I would file but I cannot afford an attorney.</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>

Appendix F

Swenney and McFarlin (1997) Procedural Justice Instrument

### Procedural Justice

**Directions:** Please rate how strongly you agree or disagree with each of the following statements by circling the appropriate box.

	Strongly Disagree	Disagree	Undecided	Agree	Strongly Agree
1. I am not sure what determines how I can get a promotion in this organization	1	2	3	4	5
2. I am told promptly when there is a change in policy, rules, or regulations that affects me	1	2	3	4	5
3. It's really not possible to change things around here	1	2	3	4	5
4. There are adequate procedures to get my performance rating reconsidered if necessary	1	2	3	4	5
5. I understand the performance appraisal system being used in this organization	1	2	3	4	5
6. When changes are made in this organization, the employees usually lose out in the end.	1	2	3	4	5
7. Affirmative action policies have helped advance the employment opportunities in this organization	1	2	3	4	5
8. In general, disciplinary actions taken in this organization are fair and justified	1	2	3	4	5
9. I am not afraid to "blow the whistle" on things I find wrong with my organization	1	2	3	4	5
10. If I were subject to an involuntary personnel action, I believe my agency would adequately inform me of my grievance and appeal rights	1	2	3	4	5
11. I am aware of the specific steps I must take to have a personnel action against me reconsidered	1	2	3	4	5
12. The procedures used to evaluate my performance have been fair and objective	1	2	3	4	5
13. In the past, I have been aware of what standards have been used to evaluate my performance	1	2	3	4	5

Appendix G  
Demographic Instrument

## Demographic Section

**Directions:** Answer the following questions by checking the appropriate boxes below.

**Gender:**  Female  Male  Other **Age:** \_\_\_\_\_

**Race: (please check one)**

- |  |   |
|--|---|
| <input type="checkbox"/> White/Non-Hispanic                                  | <input type="checkbox"/> African American               |
| <input type="checkbox"/> Hispanic/Latino                                     | <input type="checkbox"/> Asian                          |
| <input type="checkbox"/> Native Hawaiian/Other Pacific Islander              | <input type="checkbox"/> American Indian/Alaskan Native |
| <input type="checkbox"/> Other (e.g., a combination of the categories above) |   |

**Organizational sector:**

- |   |   |
|---|---|
| <input type="checkbox"/> Publicly owned for profit    | <input type="checkbox"/> Privately-owned for profit |
| <input type="checkbox"/> Nonprofit                    | <input type="checkbox"/> Government                 |
| <input type="checkbox"/> Other (Please specify) _____ |   |

**Employee level:**

- |  |  |   |
|--|--|---|
| <input type="checkbox"/> Executive level | <input type="checkbox"/> Middle Management | <input type="checkbox"/> Professional                 |
| <input type="checkbox"/> Blue-collar     | <input type="checkbox"/> Office/Clerical   | <input type="checkbox"/> Other (Please specify) _____ |

**Level of Education:** Please indicate the highest level of education you obtained by circling the appropriate response.

- |   |  |
|---|--|
| <input type="checkbox"/> High School                        | <input type="checkbox"/> Master's Degree |
| <input type="checkbox"/> Associate's degree or some college | <input type="checkbox"/> Doctoral Degree |
| <input type="checkbox"/> Bachelor's Degree                  |  |

Appendix H

Institutional Review Board Consent Form





December 1, 2011

Erin Harrison  
Psychology  
1012 Moundridge Dr.  
Lawrence, KS 66049

Dear Ms. Harrison:

Your application for approval to use human subjects, entitled "How employee's knowledge of employment law and perceived procedural injustice affect employee's intent to sue their employer," has been reviewed. I am pleased to inform you that your application was approved and you may begin your research as outlined in your application materials.

The identification number for this research protocol is 12032 and it has been approved for the period 11/1/2011 to 4/1/2012.

If it is necessary to conduct research with subjects past this expiration date, it will be necessary to submit a request for a time extension. If the time period is longer than one year, you must submit an annual update. If there are any modifications to the original approved protocol, such as changes in survey instruments, changes in procedures, or changes to possible risks to subjects, you must submit a request for approval for modifications. The above requests should be submitted on the form Request for Time Extension, Annual Update, or Modification to Research Protocol. This form is available at [www.emporia.edu/research/docs/irbmod.doc](http://www.emporia.edu/research/docs/irbmod.doc).

Requests for extensions should be submitted at least 30 days before the expiration date. Annual updates should be submitted within 30 days after each 12-month period. Modifications should be submitted as soon as it becomes evident that changes have occurred or will need to be made.

On behalf of the Institutional Review Board, I wish you success with your research project. If I can help you in any way, do not hesitate to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Michael Butler pr".

Michael Butler  
Chair, Institutional Review Board

pf

cc: George Yancey

Appendix I  
Informed Consent Form

### Informed Consent

Study Name: *Employee Employment Law Knowledge*

Student Researcher(s): *Erin Harrison*

Telephone Number(s): (785)-550- 0462

E-mail: eharriso@emporia.edu

The Department of Psychology at Emporia State University supports the practice of protection for human subjects participating in research and related activities. The following information is provided so that you can decide whether you wish to participate in the present study.

The surveys that accompany this Informed Consent Document ask questions about what your company does to educate you on your employment rights. In addition to asking questions on your personal knowledge on employment rights and recent changes in employment law which affect your rights as an employee. Although your participation in this research project is voluntary, the knowledge that you have may give insight on how to protect your rights so your time and consideration is appreciated. With the information of this study organizations will be able to see if more attention should be paid to the education of employees on their rights and how to uphold them.

This study will ask you to complete a survey on your knowledge of general employee rights and employment law. In addition to answering questions about your employers methods of educating you on your employment right, along with questions to measure your perception of procedural justice.

The survey takes around thirty minutes of your time. Please complete the survey and place it in the envelope provided and return. Your involvement is voluntary and you have the right to withdraw from the study with no harm or penalties to you.

For your privacy and confidentiality there is no need to write your name on the survey or return envelope. I will be the only person to view and access the original copies, which will be stored and destroyed.

If you wish to obtain a copy of the research please contact me through my provided information. Also, feel free to call with any problems, concerns, or questions.

Sincerely,  
Erin Harrison  
eharriso@emporia.edu  
785-550- 0462

All persons who take part in this study must sign this consent form. Your signature in the space provided indicates that you have been informed of your rights as a participant, and you have agreed to volunteer on that basis.

*"I have read the above statement and have been fully advised of the procedures to be used in this project. I have been given sufficient opportunity to ask any questions I had concerning the procedures and possible risks involved. I understand the potential risks involved and I assume them voluntarily. I likewise understand that I can withdraw from the study at any time without being subjected to reproach."*

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Signature of Employee

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Date

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Printed Name

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Date

For a written summary of the results, please write your email address:

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