



September 30, 2014

## **Texas Roadhouse Alleges In Federal Lawsuit That The Equal Employment Opportunity Commission Has Violated The "Freedom Of Information Act" And President Obama's Directives On Compliance**

**-- Texas Roadhouse asks for EEOC records on how its investigation of alleged age discrimination began - since EEOC admits that no applicant complaints prompted the investigation that led to its nationwide lawsuit**

**-- The Texas Roadhouse Complaint alleges: "The very agency that has attempted to enforce the law against age discrimination is defying the law and the President's explicit directions."**

LOUISVILLE, Ky., Sept. 30, 2014 /PRNewswire/ -- Texas Roadhouse ("TXRH"), which is known for hand-cut steaks, made-from-scratch-sides, fresh-baked bread, and its lively atmosphere, including line dancing and loud country music, today filed a lawsuit in U.S. District Court, Western District of Kentucky, asking the Court to require the Equal Employment Opportunity Commission to comply with the federal Freedom of Information Act (known as "FOIA") and produce agency records requested in letters received by EEOC in July and August of this year.

No records have yet been produced, Texas Roadhouse says -- "not one page."

The federal FOIA requires that the EEOC respond within 20 to 30 business days of receipt of requests for agency records with a determination as to whether or not the documents requested will be produced. Texas Roadhouse alleges that the EEOC failed to meet those statutory deadlines and the requirement for written explanations. So far, Texas Roadhouse says, the EEOC has failed to produce any records requested under FOIA in three areas:

- (1) the total amount of taxpayer funds expended on the case filed against TXRH in 2011 to date;
- (2) all records regarding the genesis of the investigation and charges of alleged age discrimination alleged against Texas Roadhouse for "front of the house" employees (e.g., hosts, servers, server assistants, and bartenders); and
- (3) all statements the EEOC made to the media about the case, noting in its complaint that EEOC attorneys have made public statements in media and at conferences that the Company is guilty of nationwide age discrimination before it has had its day in court.

The request for these documents under FOIA was made in the context of an age discrimination case filed by the EEOC against Texas Roadhouse in 2011, alleging that the Company discriminated on a nationwide basis against individuals aged 40 and older for its "front of the house" positions (such as hosts, servers, server assistants and bartenders).

Texas Roadhouse, which operates 435 restaurants in 49 states, has denied these accusations. Its attorney, Stephen Pence, said that these front-of-house positions are primarily night and weekend jobs, where employees wear jeans and t-shirts and may be required to line dance during their shifts. He points out that Texas Roadhouse is looking for high-energy, enthusiastic, qualified applicants, regardless of age, but notes that "it is impossible to hire people that aren't interested in the positions that Texas Roadhouse has to offer." Moreover, added Mr. Pence, "under the Age Discrimination in Employment Act - the very law that the EEOC seeks to enforce in its lawsuit - Texas Roadhouse is not permitted to ask any applicant's age, so the Company does not know how it could follow the EEOC's apparent suggestion that the Company should begin taking age into consideration when making hiring decisions."

Pence continued by explaining the context that led to Texas Roadhouse's FOIA requests and the filing of its lawsuit after the EEOC failed to produce critical records.

The EEOC launched a public campaign after it filed its lawsuit in 2011, often stating as a proven fact (as opposed to an allegation not yet proven in court) that Texas Roadhouse had engaged in nationwide, systemic, illegal age discrimination even before the Texas Roadhouse has had its first day in court on the merits, Pence said. In fact, Texas Roadhouse's lawyers asked

the Chair and General Counsel of the Commission to stop these prejudicial public statements. They received no answer to this request. Pence said that the EEOC's attorneys have admitted that the agency launched its investigation of TXRH without having received a single complaint of age discrimination.

As a result, Pence said, in July and August, Texas Roadhouse submitted its FOIA requests in the above three categories. As the Complaint details, including attachments of all correspondence and emails between Texas Roadhouse's lawyers and the EEOC's FOIA representatives, the EEOC did not meet statutory and regulatory requirements to explain its delay in writing beyond the 20 or 30 day deadline (the latter in the event of "unusual circumstances," as defined in the FOIA statute).

Pence also noted that President Obama issued an executive declaration on January 21, 2009 - his first day in office as President - that urged affirmative compliance with FOIA by all federal agencies, stating:

"In responding to requests under the FOIA, executive branch agencies (agencies) should act promptly and in a spirit of cooperation, recognizing that such agencies are servants of the public. All agencies should adopt a presumption in favor of disclosure, in order to renew their commitment to the principles embodied in FOIA, and to usher in a new era of open Government."

Texas Roadhouse stated in the introduction to its Complaint:

"Yet more than six years later, the Equal Employment Opportunity Commission, as the Complaint below spells out and the attachments to the Complaint prove, has indisputably violated explicit provisions of FOIA and its own regulations. And it has also done so in disregard of the spirit and the letter of President Obama's unambiguous directive."

The EEOC's failure to honor its FOIA requirements is also entirely inconsistent with EEOC General Counsel David Lopez's promise, that "as a public law enforcement agency, we operate proudly in the public sunshine."

In the conclusion of its introduction to the complaint, the Company stated:

"In other words, simply put: the very agency that has attempted to enforce the law against discrimination -- by launching an unprovoked attack against Texas Roadhouse, then waging a media campaign declaring Texas Roadhouse guilty before a single day, indeed, a single minute, in court -- is defying the law applicable to it, and the President's explicit directions. This cannot stand in a society governed by fundamental principles of fairness, due process, and the rule of law."

## **About Texas Roadhouse**

*Based in Louisville, Kentucky, with more than 435 locations in 49 states, Texas Roadhouse opened its doors in 1993. The Louisville, KY based company is famous for hand-cut steaks, made-from-scratch sides, fresh-baked bread, and its lively atmosphere. In 2014 Texas Roadhouse was named one of Employee's Choice Best Places to work by Glassdoor, in 2012 Texas Roadhouse was named Top Steakhouse in the Nation's Restaurant News' Consumer Picks survey, in 2007 and 2008 Forbes magazine ranked the company as one of the 200 Best Small Companies, and in 2009 the Company was ranked "Best Value" by readers of Consumer Reports magazine. For more information, visit [www.texasroadhouse.com](http://www.texasroadhouse.com).*

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