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No Americans Need Apply

EEOC lawsuits reveal how employers are eager to replace low-skill native workers with immigrants

By Jason Richwine

Introduction

The economic impact of immigration on the U.S. labor market is mixed. Adding new workers from abroad can lower the price of consumer goods and free up the native-born for other types of labor. At the same time, however, native-born workers who compete directly with immigrants can face fewer job opportunities, wage stagnation, and poor work conditions. Empirical studies by economists generally confirm that these positive and negative effects on the labor market occur simultaneously.[1] Weighing their relative importance is a matter for the political sphere.

The empirical studies try to separate the effect of immigration from other variables that influence labor markets. Unfortunately, this is a difficult task that often bogs down in methodological disputes. Despite the general finding of mixed effects, the existence of a wide range of defensible methods leads to a wide range of results. It even allows some immigration advocates to claim that native workers suffer zero ill consequences from foreign labor.[2] Is that claim plausible? Supplementing the data with tangible, on-the-ground evidence can help us decide.

This report examines real-world case studies of the negative effects of immigration on the labor market. The source of these cases is the Equal Employment Opportunity Commission (EEOC), which for about two decades has been uncovering evidence that U.S. companies actively seek to replace low-skill native workers with immigrants. A sample of EEOC cases, presented in rough chronological order below, paints a disturbing picture of how low-skill American workers — typically black, but sometimes white as well — are systematically passed over for manual labor jobs in favor of Hispanics, who are usually foreign-born in the regions where these cases predominate.[3]

Of course, no set of EEOC cases, no matter how consistent and extensive, is ironclad proof that immigration negatively affects low-skill natives as a group. Nevertheless, the cases reveal that at least in certain regions and certain industries, natives certainly do lose. And if the anti-native mindset among U.S. employers is as widespread as these cases suggest, the number of losers could be large.

EEOC Case Summaries

This section presents the allegations in narrative form. It does not contain any commentary or inferences beyond what the EEOC has presented. A table summarizing the main characteristics of each case can be found at the end of the report.

When a warehouse in Memphis, Tenn., began using a new employment agency called Paramount Staffing to fill its daily work crew, Paramount "essentially replaced the African Americans with Hispanics," according to the EEOC. Potential workers would line up outside the warehouse each day, but Paramount would select Hispanics over blacks, even when black workers were experienced and farther ahead in line. Sometimes Paramount's managers

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would send potential black workers home by announcing in English that there were no more positions. "After the African Americans left, the Hispanics were allowed to come into the warehouse and work."[4]

Little River Golf operated a housekeeping service in Pinehurst, N.C. The company agreed to a settlement with the EEOC after it discharged six black employees "under the guise of a layoff" and immediately replaced them with Hispanic workers.[5]

When Mount Vernon Holdings purchased a Best Western hotel in Alexandria, Va., in 2007, the new management began systematically replacing the hotel's black housekeepers with Hispanics. The replacement began when existing employees were told they would need to re-apply for their positions after the management change. Subsequently, blacks with years of experience and satisfactory performance were denied re-employment. Hispanic workers were hired in their place. According to the EEOC, one manager "expressed her preference for hiring Hispanics as housekeepers."[6]

In 2008 and 2009, the EEOC settled two lawsuits with Compare Foods outlets in North Carolina. In one case, a non-Hispanic white worker in the meat department was fired without cause and replaced with a Hispanic "as a racially motivated maneuver."[7] In the other case, three non-Hispanic workers (one white and two black) were similarly replaced with Hispanics.[8]

Propak Logistics ran a Walmart distribution center in Shelby, a city in western North Carolina. Although Shelby was more than 98 percent non-Hispanic at the time of the previous Census, Propak predominantly hired Hispanics "to the exclusion of similarly or more qualified non-Hispanic applicants," according to the EEOC.[9]

Scrub, Inc. is a Chicago-area janitorial company that allegedly avoided hiring blacks. It "recruited through media directed at Eastern European immigrants and Hispanics," and then used subjective hiring standards to build a workforce of immigrants. According to the EEOC, Scrub's president "told the HR manager that Scrub is a Polish company and that she needed to recruit more Europeans and not African-Americans."[10]

In 2010, the EEOC sued the owners of a Hampton Inn located in Indianapolis. "The general manager ... advised her employees that she wanted to get 'Mexicans' in who would clean better and complain less than her black housekeeping staff."[11]

In 2011, the EEOC sued a different Hampton Inn, this one located in Craig, Colo. According to the lawsuit, three non-Hispanic white housekeepers were fired by the new general manager and replaced by Hispanics. The owners, Falgon Patel and Mukund Patel, told the general manager that they "preferred that the maids be Hispanic because in their opinion Hispanics worked harder," while "American" employees are lazy. The general manager allegedly told a Hispanic employee to "recruit friends for the incoming vacancies because the owners preferred a Hispanic workforce." After three months, all of the Hampton Inn's non-Hispanic housekeepers were gone.[12]

Southern Valley Fruit and Vegetable, located in Georgia, favors foreign-born labor. According to a 2011 EEOC lawsuit, Southern Valley primarily employs Mexicans for the harvest season, but would (initially) hire Americans as well. Shortly after each harvest began, most of the Americans would be summarily discharged. "All you Americans are fired," one manager told a group of 80 who were let go at the same time. On another day that at least 16 Americans were fired, a manager stated, "All you black American people, fuck you all. ... [J]ust go to the office and pick up your check." In an accompanying press release, the district director in the EEOC's Atlanta office claimed that "the practices alleged in the lawsuit are relatively common in the industry." An attorney with Georgia Legal Services added, "Discrimination against American workers in the H-2A guest worker program is endemic. We hope this case will bring attention to that problem."[13]

When PBM Graphics of Durham, N.C., sought help from an employment agency to fill temporary jobs binding materials by hand, PBM "expressed its preference for Hispanic temporary workers," according to the EEOC. Unsurprisingly, when the agency still supplied some non-Hispanic workers, PBM was more likely to reject them in favor of Hispanics.[14]

Prestige Transportation Service drives airline crew members between the airport and their hotels in the Miami area. According to a 2013 EEOC lawsuit, Prestige would discard or refuse to accept employment applications from non-Hispanic blacks. "On multiple occasions when a black person applied for employment, [Prestige managers] Ms. Ramirez and Ms. Rodriguez would stand behind the applicant and rub their hands on their skin to display their disdain for black people." Staff meetings were conducted in Spanish only, and one black driver who did manage to get hired would be sent home early while Hispanics continued to work.[15]

In a 2013 case reminiscent of Paramount Staffing's behavior in Memphis six years earlier, the EEOC sued the Koosharem Corporation, also in Memphis, for setting up a sham employment line. Koosharem management invited Hispanics to exit the line and begin working, while non-Hispanic white and black applicants were skipped over. In another facility staffed by Koosharem, Hispanic applicants were taken to a separate room. Non-Hispanic applicants were then told to go home because no positions were available. Non-Hispanics who persisted in seeking employment were subject to onerous procedures and background checks that were not required of Hispanic applicants. Hispanics were 6.5 percent of the city's population in the previous Census, but they were 72 percent of the workers placed by Koosharem.[16]

ACM Services of Rockville, Md., remediates asbestos, lead, and other environmental contaminants. It "used exclusively word-of-mouth recruitment techniques" for its workers out in the field, "with the purpose and significant effect of failing to recruit black job seekers," according to the EEOC in 2014.[17]

In 2014, the EEOC sued Lawler Foods, a Houston-area bakery, for systematically favoring Hispanic job applicants over non-Hispanic applicants. According to the lawsuit, Lawler told non-Hispanic white and black applicants that there were no openings, discouraged them with horror stories about the nature of the work, and required Spanish-language skills without justification. Lawler's low-skill workforce was less than 1 percent black in an area where blacks were around 30 percent of the population.[18]

Another EEOC lawsuit in 2014 charged J&R Baker Farms in Georgia with an extensive list of violations against American-born workers, nearly all of whom were black. The farm "segregated work crews by national origin and/or race"; did not allow the American workers to start on time; sent Americans home or told them not to report for work on days when foreign-born employees worked as normal; and terminated Americans based on production standards that were not disclosed and not enforced against foreign workers. When the agricultural season began in the fall of 2012, nearly all American workers were fired "within a few days ... for violating undisclosed work rules."[19]

Resource Employment Solutions supplied day laborers to a FedEx "Smart Post" location in Southaven, Miss. Potential workers were instructed to arrive at the FedEx location as early as possible each day, and names would then be drawn from the sign-in sheet on a first-come, first-served basis. According to the EEOC, however, it did not matter how high on the list black applicants were able to place their names. The onsite manager for Resource Employment Solutions "pre-drafted a sign-in sheet with Hispanic names, regardless of what time the Hispanic employees arrived at the worksite." Even when blacks did get selected, they received far fewer hours than Hispanic workers received.[20]

OnSite Solutions provided detailing services to a car dealership in Midwest City, Okla. According to a 2015 lawsuit filed by the EEOC, OnSite demoted a black manager and instructed the new manager (who was Hispanic) to "'fire all the blacks' and hire whites and 'Mexicans' to replace them."[21]

In 2017, the EEOC filed a lawsuit against Champion Fiberglass, a Houston-area manufacturer. To create a workforce that was virtually all Hispanic, the company simply denied job applications to people who could not speak Spanish. The Spanish requirement was not a business necessity, but it effectively eliminated non-Hispanics from consideration. Among the company's 81 low-skill laborers, 77 were Hispanic, according to the EEOC, despite the company's location near a residential area with large numbers of non-Hispanic whites and blacks.[22]

Like Champion Fiberglass, Marquez Brothers imposed an unnecessary Spanish-speaking requirement on its workforce, according to a 2017 EEOC lawsuit. The California-based food processor repeatedly turned away non-Hispanic applicants, even when they were more experienced than Hispanic applicants who were offered jobs. One plaintiff "claimed that it was well known within the community ... that Marquez Brothers only hired Latinos." One applicant of mixed European and Mexican heritage said that his application was tossed under a table after he was unable to respond in Spanish to a question from Marquez Brothers staff.[23]

In 2018, the EEOC charged that the Chicago Meat Authority deliberately avoided hiring blacks by advertising on Spanish-language radio and relying on employee referrals. "Company management indicated a preference for hiring Hispanic employees over black employees even though the company is in a largely African-American area."[24]

Discussion

Although case studies are always limited to particular circumstances, the consistency and extent of these EEOC lawsuits suggest broader lessons. U.S. companies appear to prefer low-skill foreign-born labor over their native-born counterparts, particularly blacks, and the resulting discrimination against U.S.-born workers is neither subconscious nor subtle. Fake sign-in sheets, separate employment lines, explicit requests for Hispanics, and "All you Americans are fired" could hardly be interpreted as accidental bias. Once we become aware of such behavior, claims that low-skill natives are unharmed by foreign labor seem out of touch with reality. Immigration has clearly damaged the employment prospects of certain natives who — contrary to "jobs Americans won't do" messaging — show up to perform the same manual labor that immigrants perform.

The evidence presented in this report is qualitative in nature, but the patterns are clear. For example, although EEOC cases of employers preferring Hispanics over blacks are common, one could spend hours poring over case lists and still struggle to find examples of the reverse. When Hispanics are the plaintiffs in EEOC cases, it is rarely because they were denied employment or replaced as workers by another group. Instead, Hispanics file claims that are almost always about working conditions — low pay, lack of job security, bans on speaking Spanish, racial taunts, and sexual harassment. (In fact, on-the-job sexual harassment of Hispanic women appears to be so common that another whole report would be needed to cover it.[25]) These patterns add to suspicions that employers import foreign labor in order to depress wages and working conditions.

Finally, the stereotype that emerges repeatedly in these EEOC cases — that native workers are lazy and unreliable — also appears in anonymous interviews with hiring managers.[26] It results from the unfortunate fact that low-skill natives do suffer disproportionately from personal problems such as criminal records, drug abuse, and welfare dependency. Helping these downtrodden Americans become productive citizens is a serious challenge, but further devaluing their labor by importing more foreign workers is the worst way to go about it.

Summary Characteristics of EEOC Cases Cited in Text

Year[1]	State	Defendant	Occupation	Disfavored Group[2]	Favored Group[2]	Hispanic % Foreign[3]
2006	Tenn.	Paramount Staffing	Warehouse	Black	Hispanic	86
2006	N.C.	Compare Foods	Meat Cutting	White, Black	Hispanic	88
2008	N.C.	Little River Golf	Housekeeping	Black	Hispanic	88
2008	N.C.	Compare Foods	Meat Cutting	White	Hispanic	88
2009	Va.	Best Western	Housekeeping	Black	Hispanic	80
2009	N.C.	Propak Logistics	Distribution	Non-Hispanic	Hispanic	87
2009	Ill.	Scrub	Janitorial	Black	Polish Immigrant, Hispanic	72
2010	Ind.	Hampton Inn	Housekeeping	Black	"Mexican"	67
2011	Colo.	Hampton Inn	Housekeeping	White, "American"	Hispanic	49
2011	Ga.	Southern Valley Fruit/Veg	Farming	U.S. Native (Mostly Black)	Mexican Immigrant	80
2011	N.C.	PBM Graphics	Bindery Handwork	Non-Hispanic	Hispanic	82
2013	Fla.	Prestige Transport. Service	Driving	Black	Hispanic	67
2013	Tenn.	Koosharem Corporation	Unspecified Temp.	White, Black	Hispanic	76
2014	Md.	ACM Services	Environ. Remediation	Black	Unspecified (Likely Hispanic)	84
2014	Tex.	Lawler Foods	Food Preparation	White, Black	Hispanic	53
2014	Ga.	J&R Baker Farms	Farming	U.S. Native (Mostly Black)	Immigrant	78
2014	Miss.	Resource Employment Sols.	Distribution	Black	Hispanic	68 [4]
2015	Okla.	OnSite Sols.	Detailing	Black	White, "Mexican"	70
2017	Tex.	Champion Fiberglass	Unspecified Labor	Non-Hispanic (Mostly Black)	Hispanic	50
2017	Calif.	Marquez Brothers	Food Preparation	Non-Hispanic	Hispanic (Spanish-Speaking)	59
2018	Ill.	Chicago Meat Authority	Meat Processing	Black	Hispanic	63 [5]

Source: EEOC; American Community Survey (last column only)

[1] Year when the lawsuit was filed. The main text sometimes gives the years of surrounding events — for example, when the violation occurred, or when a settlement was reached.

[2] Groups are identified with as much specificity as the case information allows. Given the Census data from the last column, Hispanics are usually foreign-born even when not specified in the case. A group is in quotes when referenced by a party to the case who may be using it as shorthand — for example, "Mexican" might refer to Hispanics generally.

[3] Based on American Community Survey data, this is the percentage who are foreign-born in the relevant state and year among working-age Hispanics in the labor force with no more than a high school education.

[4] Small sample size.

[5] 2017 data used because 2018 data is not yet available.

End Notes

[1] Jason Richwine, "An Abundance of New Academic Studies Find Negative Impacts of Immigration", Center for Immigration Studies, June 14, 2019.

[2] The editors of Vox expressed that sentiment most clearly (and absurdly) when they titled a piece by Michael Clemens, "There's No Evidence That Immigrants Hurt Any American Workers", August 3, 2017. The article itself is less sweeping in its pronouncements.

[3] The last column of the summary table at the end of this report gives the percentage of Hispanics who were foreign-born in the state and year of each case.

[4] *EEOC v. Paramount Staffing*, Civil Action No. 2:06-cv-02624-JPM-CGC.

[5] *EEOC v. Little River Golf*, Civil Action No. 1:08-cv-00546; "Little River Golf to Pay $44,700 to Settle EEOC Race and National Origin Discrimination Suit", EEOC press release, August 6, 2009.

[6] *EEOC v. Mount Vernon Holdings*, Civil Action No. 1:09-cv-01099-CMH-TRJ.

[7] *EEOC v. West Front Street Foods*, Civil Action No. 5:08-cv-00102-RLV-DSC.

[8] *EEOC v. E&T Foods*, Civil Action No. 3:06-cv-00318-FDW-CH; "Compare Foods to Pay $30,000 for National Origin and Race Discrimination Against Non-Hispanic", EEOC press release, May 19, 2009.

[9] *EEOC v. Propak Logistics*, Civil Action No. 1:09-cv-00311-MR-DLH.

[10] *EEOC v. Scrub*, Civil Action No. 1:09-cv-04228; Diane Smason, "Written Testimony of Diane Smason, Supervisory Trial Attorney", EEOC Chicago District Office, June 22, 2011.

[11] *EEOC v. New Indianapolis Hotels*, Civil Action No. 1:10-cv-01234-WTL-DKL; "Eastside Hampton Inn Franchise Sued by EEOC for Race Discrimination and Retaliation", EEOC press release, September 30, 2010.

[12] *EEOC v. Century Shree Corp., et al.*, Civil Action No. 11-cv-2558-REB-CBS.

[13] *EEOC v. Hamilton Growers*, Civil Action No. 7:11-cv-00134-HL; "Hamilton Growers Sued by EEOC for Discrimination Against American Workers", EEOC press release, October 5, 2011; "Hamilton Growers to Pay $500,000 to Settle EEOC Race / National Origin Discrimination Lawsuit", EEOC press release, December 13, 2012.

[14] *EEOC v. PBM Graphics*, Civil Action No. 1:11-cv-00805.

[15] *EEOC v. Prestige Transportation Services*, Civil Action No. 1:13-cv-20684-AMS.

[16] *EEOC v. Koosharem Corporation*, Civil Action No. 2:13-cv-02761-CGC.

[17] *EEOC v. ACM Services*, Civil Action No. 8:14-cv-02997-PWG. The case does not specify the group that ACM preferred to hire for field work. However, given the word-of-mouth recruitment technique associated with hiring Hispanics in other cases, and given that ACM was also charged with harassing Hispanic women in the office, it is likely that ACM hired Hispanic men for its field jobs.

[18] *EEOC v. Lawler Foods*, Civil Action No. 4:14-cv-03588; Jason Richwine, "No Natives Need Apply", *National Review*, June 9, 2016.

[19] *EEOC v. J&R Baker Farms*, Civil Action No. 7:14-cv-00136-HL.

[20] *EEOC v. Resource Employment Solutions*, Civil Action No. 3:14-cv-00217-MPM-SAA.

[21] *EEOC v. OnSite Solutions et al.*, Civil Action No. 5:15-cv-01066-C.

[22] *EEOC v. Champion Fiberglass*, Civil Action No. 4:17-cv-02226; L. M. Sixel, "Company Sued for Allegedly Favoring Spanish-Speaking Hispanics in Hiring", *Houston Chronicle*, July 21, 2017.

[23] *EEOC v. Marquez Brothers International*, Civil Action No. 1:17-cv-00044-AWI-EPG.

[24] *EEOC v. Chicago Meat Authority*, Civil Action No. 1:18-cv-01357; "EEOC Sues Chicago Meat Authority for Race Discrimination and Retaliation", EEOC press release, February 22, 2018.

[25] The problem is particularly bad on farms. Here is a sample of harassment charges from *EEOC v. Rivera Vineyards*: "A class of Latino farmworkers, mostly women, were subjected to sexual harassment, including rape, touching, groping, breast grabbing, leering, and derogatory comments." EEOC, "Selected List of Pending and Resolved Cases Involving Farmworkers from 1999 to the Present", October 2015.

[26] Amy Wax and Jason Richwine, "Low-Skill Immigration: A Case for Restriction", *American Affairs*, Winter 2017.