Equal Law, Unequal Process:
How Context and Judges Shape Equal Opportunity Decision-Making in the Courts

Thesis

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Abstract

Federal anti-employment discrimination laws have succeeded in changing levels of diversity and inequality at work. Inequality and workplace discrimination, however, persist. One cause may be unequal enforcement of anti-discrimination laws; another may very well be the non-neutrality of the legal process itself. In this second regard, some research highlights ways in which a judge’s race and/or gender might shape how cases are handled. Other works suggests that local social context (e.g., the geography of place and local politics) may matter as well. In this thesis I build on such prior work and, drawing on a set of EEOC workplace discrimination cases prosecuted in Federal Court and combining it with locality data, I analyze: (1) the impact of local context, specifically rurality and local and regional political context, and; (2) how judges race and gender interact with the local cultural-milieu. Findings reveal that white judges and rural judges are more defendant friendly in their motion decisions and case determinations. Meanwhile, white judges in the south and in conservative areas respond more conservatively to their social context than black judges. These specific effects of locality are more pronounced and significant in race compared to gender-specific discrimination cases. More generally, cases in rural locals witness more conservative decision-making and, thus, more negative outcomes for plaintiffs.
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Chapter 1: Introduction

Gainful employment is necessary for most citizens to survive and can serve as a step up the economic ladder. This is especially true for historically disadvantaged groups. Unfortunately, employment discrimination based on race, gender, and other identities still regularly occurs (Bisom-Rapp 1999; Roscigno, Garcia, and Bobbitt-Zeher 2007; Skaggs and Bridges 2013). Employment discrimination suits under Title VII of the Civil Rights Act of 1964 and related federal statutes are one of the largest categories of federal litigation (Weinberg and Nielsen 2012). While the majority of discriminatory acts are neither reported or prosecuted, successful claims can nevertheless be a powerful remedy for plaintiffs (Nielsen and Nelson 2005; Weinberg and Nielsen 2012).

The Civil Rights Act, of course, has partially accomplished its goal of reducing employment discrimination nationwide (Donahue III and Heckman 1991; Kalev and Dobbin 2006; Leonard 1990; Skaggs 2009). Indeed, employment discrimination lawsuits and the potential of such suits can provide deterrence through via public visibility or by impacting a company’s stock price (Hirsh and Cha 2015; Skaggs 2009). Moreover, effective oversight can close race and gender wage and promotion disparities and increase minority hiring both in the company sued and in nearby companies (Burstein and Edwards 1994; Hirsh and Cha 2015; Kalev and Dobbin 2006; Skaggs 2008, 2009). However, for Equal Employment Opportunity Law to actually create equal opportunity, courts must consistently and effectively enforce it. If systematic differences exist in enforcement and the processing of cases, depending on where cases occur or who hears it, then gaps will remain.

This thesis examines how a judge’s race and gender, and local community factors influence enforcement of anti-discrimination law in cases alleging race and/or sex discrimination.
My approach is consistent with constructionist frames within the law and society literature. In contrast to conceptions of legal formalism, which hold that to understand the law means solely understanding the law on the books, a constructionist approach makes no such assumption. Instead, the law is more appropriately viewed as “a culturally and structurally imbedded social institution” (Suchman and Edelman 1996). Although such a definition of law may seem uncontroversial to sociologists, the tension between legal formalism and constructionism represents a long and ongoing tension in the legal community (Kulik, Perry, and Pepper 2003; Weinberg and Nielsen 2012).

Employment discrimination law is a particularly ripe field for inquiry in the above noted regards because the written law has been and remains very ambiguous (Dobbin 2009; Edelman 2016; Edelman, Smyth, and Rahim 2016; Nielsen and Nelson 2005). Interpretations and variations in interpretation can consequently occur at the national level in Supreme Court decisions and at local levels. Owing to this ambiguity, scholars have focused on questions of how discrimination came to be and continues to be defined and redefined. Research has already demonstrated the ways in which corporations shaped the very law that watches them, how courts and communities have altered employment practices by changing what is deemed acceptable, how judges own background can shape their handling of discrimination decisions, and how personal and community factors can shape an individuals own belief that they have been discriminated against (Avery, McKay, and Wilson 2008; Bisom-Rapp 1999; Boyd 2016; Boyd, Epstein, and Martin 2008; Dobbin 2009; Dobbin and Kelly 2007; Edelman et al. 1991; Garnett 2012; Hirsh 2009; Nelson, Berrey, and Nielsen 2008; Skaggs 2008, 2009; Suchman and Edelman 1996). To what extent, however, is the processing and decision-making surrounding cases impacted?
In this thesis, I analyze how judges and local community factors shape legal decisions in race and sex-specific employment discrimination cases. By doing so, we can better understand how the courts may protect discriminatory practices, as the same community factors that lead to discrimination may also lead to a legal decision defining that same behavior as non-discriminatory. Proceeding from the notion that law is a social operation, examination of how differences in social context and personal characteristics can influence the operation of the law is arguably important for both legal scholarship and the sociological understanding of institutional processes and inequality reproduction (Baumer and Martin 2013; Johnson 2006; Kulik et al. 2003; Weinberg and Nielsen 2012).

My analyses draw from a large sample of federal EEOC case files coupled with geographic data on where the case was filed and processed. The resulting analyses of judicial decision-making in both case motions and final case determinations adds to the existing research in several key regards. First, I explicitly incorporate into my empirical analyses two measures of social context (i.e., politics and rurality) that have not been examined in the context of employment discrimination law. Secondly, I considering how judges’ race and gender interact with these contextual factors in shaping the definition of discrimination. These extensions of prior work and theorizing on legal constructionism are important for an even more general sociological reason: If we are to understand law as a social institution, then it is essential to understand decision-making, even legal decision-making and case processing, within social context.
Chapter 2: Background Literature

The Evolution of the Definition of Discrimination

After the passage of the Civil Rights Act of 1964, which lacked a clear definition of discrimination, corporations filled this void by promoting specific practices to allegedly reduce discrimination and liability. Courts later adopted legal standards based off these new rules, thus creating some definition of discrimination (Bisom-Rapp 1999; Dobbin 2009; Dobbin et al. 1993; Dobbin and Kelly 2007; Edelman et al. 1991; Krieger, Best, and Edelman 2015; Nelson et al. 2008). Corporations and courts are not the only party shaping the meaning of discrimination. Community beliefs, demographics, and organization also shape the level of inequality among local employers by signaling what behavior is deemed discriminatory and inappropriate (Beggs 1995; Cohen and Huffman 2003; Garnett 2012; Skaggs 2008, 2009). Employers in more egalitarian communities exhibit more racial and gender diversity in how jobs are filled, while also exhibiting smaller wage inequality (Beggs 1995). Employers in communities with greater numbers of same-sex couples, tend to be have less inequality (Garnett 2012).

Individual employees can also define discrimination. Research shows that differences in personal and organizational characteristics influence whether an employee identifies potentially discriminatory behavior as illegal (Avery et al. 2008; Hirsh and Sabino 2008; Stainback, Ratliff, and Roscigno 2011). As recognizing discrimination is the first step in a successful Civil Rights suit, understanding these personal definitions is crucially important (Nielsen and Nelson 2005b). Background attributes such as one’s age, income, and education influence perceptions of unfair treatment (Bobo and Suh 2000). Organizational factors, such as levels of integration also influence this perception (Avery et al. 2008; Hirsh and Sabino 2008; Stainback, Ratliff, and
Roscigno 2011). If these factors contribute to one’s own perceptions of discrimination, they also likely contribute judge’s assessments.

Despite all this research, a complete understanding of the social construction of employment discrimination law, must also consider how community and personal factors work in concert to define discrimination in the courtroom. Communities bring their own standards with them, and if we are to understand law as a social construction, we must consider the role social context and personal characteristics of judges’ play in shaping construction of the law.

**Judicial Identities**

Put simply, a judge’s background and attitudes can shape their construction and interpretation of the law (Chew and Kelley 2008; George 2007; Sisk, Heise, and Morriss 1998). The evidence is mixed as to whether a judge’s race, gender, and politics are relevant to how s/he decides cases (Ashenfelter, Eisenberg, and Schwab 1995; Johnson 2014; Johnson et al. 2008; Steffensmeier and Britt 2001; Sunstein et al. 2006). A growing body of research shows that they are (Boyd 2016; Davis, Haire, and Songer 1993; Songer, Davis, and Haire 1994; Steffensmeier and Britt 2001). This may be because a judge’s general docket contains many routine cases any judge would handle the same way. Additionally, there are theoretical reasons to believe that a judge’s identity might only matter for particular types of cases. For example, evidence suggests that a judge’s race, gender, and political affiliation are important predictors of how a judge will rule in employment discrimination cases along with death penalty and criminal cases (Boyd 2016; Boyd et al. 2008; Chew and Kelley 2008; Collins, Manning, and Carp 2010; Collins and Moyer 2008; Fox and Sickel 2000; Gryski and Main 1986; Johnson 2014; Kastellec 2013; Miles and Sunstein 2007; Segal 2000; Steffensmeier and Britt 2001; Vines 1949).
Employment discrimination law is one field in which a judge’s personal identity may directly relate to the case (Boyd 2016; Chew and Kelley 2008; Weinberg and Nielsen 2012). Theoretically, the relevance of a judge’s race and gender may be greater in cases which directly allege illegal conduct based on the race and/or gender of the plaintiff. The existing research demonstrates that female judges are more likely to rule on motions in favor of plaintiffs alleging gender discrimination, while black judges are more likely to rule on motion in favor of plaintiffs alleging race discrimination (Boyd 2016; Chew and Kelley 2008). Research on employment discrimination thus tends to avoid examining discrimination cases in general. Instead research leads towards analyzing race and sex discrimination separately (Boyd 2016). Research also tends to focus on discrete decisions of judges, such as on motions filed by the parties. This article expands on this, by first examining judicial decisions on discrete motions, and by then looking at the final case outcome. By doing so, offer insight on the influence social context has judicial processing of cases (motion decisions) and final case outcomes.

There are reasons for why black and female judges rule differently than their white male counterparts. These judges may see themselves as group representatives, may have greater empathy for plaintiffs, past personal experience with discrimination, or different ideological/political views than white male judges (Boyd 2016; Collins et al. 2010; Farhang 2016; Johnson et al. 2008; Kastellec 2013; Kulik et al. 2003; Peresie 2005; Weinberg and Nielsen 2012). Some scholars suggest that the socialization of women and men causes them to view the world differently from each other and thus analyze cases differently. While male judges focus on things like individual rights and rules, woman may be more concerned with relational issues, which are of greater importance in employment discrimination issues. As a result, woman have what some term a “different voice,” which is not limited to cases which directly impact men and women differently (Boyd 2016; Davis et al. 1993; Fox and Sickel 2000; Miller and Maier 2008).
Local Context And Legal Decision-Making

A judge’s personal characteristics are not the only thing can shape how laws are enforced. The location where a case is heard can also impact enforcement. Federal judges typically work in local court division their entire career as a judge. The influence the local community has on them is not limited to there work. Most judges were born in the community they eventually serve (Neubauer and Fradella 2015; Richardson and Vines 1970). By law, they are required to live in the district in which they work (Procedures 2012). Most judges attended law school in the state they now work (Steffensmeier and Britt 2001). Furthermore, federal judges join the bench following years of local politicking. Therefore, a potential federal judge must already have strong networking contacts in the district s/he hopes to the president appoints him/her to (Richardson and Vines 1970).

We can consider a variety of different mechanisms by which this local context may influence judicial decision-making. The first, as evidenced by the local politicking, is that the president will only nominate attorneys who already reflect the ideology of the local district (Richardson and Vines 1970; Songer and Davis 1990). The second mechanism is that regardless of whether anyone considers ideology in the nomination process, by growing up and living in a district, judges will bring certain ideologies to the bench with them that match those of the district they work in (Richardson and Vines 1970). Finally, while federal judges have a job for life, and are allegedly immune to political pressures, there is evidence showing that local politics influences federal judges (Baumer and Martin 2013; Richardson and Vines 1970).

Prior research has identified three major factors of social context that may be particularly likely to shape judicial decision-making: local political orientation, whether a division is rural, and whether the division is in the south because each likely shapes a variety of beliefs that may be relevant in employment discrimination claims. For example, the traditional perspective is that the
South has more discrimination; non-southerners are more likely to believe equality does not yet exist, and southern whites tend to hold more negative views of African Americans\(^1\). These opinions are clearly relevant to an employment discrimination cases. Evidence already shows that these three variables measuring social context are relevant to the practice of law in discrimination and other cases.

**How Local Politics May Matter**

Previous research shows that political climate can affect how courts handle employment discrimination claims and can mediate how discrimination lawsuits bring about increases in managerial diversity in local workplaces (Skaggs 2009). Previous research also shows that county variations in occupational segregation by gender correlate with political party membership (McVeigh and Sobolewski 2007). Counties with higher occupational segregation by gender also tend to vote more Republican in presidential election. Greater gender segregation at businesses in communities is connected to a community’s views on gender equality (Garnett 2012; Skaggs 2008).

Republican dominated regions may be less likely to see gender discrimination as inappropriate, as it seems to occur in their communities. Conservative politics are also more likely to reject the existence of racial inequality (Pew Research Center 2016). Republicans may be more likely to believe that racial equality has been achieved, and thus, are less likely to support a plaintiff’s claim of discrimination. Additionally, research demonstrates the Republicans are more likely than Democrats to believe that the government has done too much to try to achieve racial equality (Pew Research Center 2004). This opinion may increase the ability to dismiss a government-backed allegation of discrimination by a racial minority. Somewhat less

\(^1\) While recent polling calls into question the continued prominence of blatantly discriminatory views, research suggests that less subtle forms of bias are still prevalent (Pew Research Center 2007, 2013).
apparent, but equally important, are ideologies connected to the role of government on business decisions. Republican and Democratic voters have different opinions on government regulation of business (Swift 2009). Therefore, even if they believe racial discrimination is wrong, they may be more likely to be opposed to the government creating an enforcement system.

There is however, no research directly examining how political party alignment at the division level influences decision-making in employment discrimination case. I predict that in courts in Republican districts, black plaintiffs alleging racial discrimination as well as plaintiffs alleging sex discrimination will succeed less often than in comparable Democratic districts.

**Rurality as a Potentially Influential Context**

Research has already demonstrated that local rural embeddedness affects the legal system. Prosecutors are five times more likely to seek the death penalty in rural areas than urban. This effect may be due in part to how support for capital punishment and racial prejudice interact (Songer and Unah 2006). Previous research looking at all cases in Alabama found variations in how all types cases proceeded, based on whether they occurred in a rural or urban county (Dumas and Haynie 2012).

Research shows that urban and rural counties exhibit different racial attitudes (Fennelly and Federico 2008; Tolbert and Grummel 2003; Voss 2000). A 2013 Pew study shows that rural, suburban, and urban residents have vastly different opinions on whether African Americans are treated fairly at work, by the police, by the courts, in elections, at schools, in businesses, and by the healthcare industry. Rural citizens are consistently more likely to believe that African Americans are treated fairly (Pew Research Center 2013). However, despite evidence that rural residents tend to have different racial opinions than white Americans, no research has examined if
this influences decisions in employment discrimination cases. I hypothesize that rural residents and judges would be less likely to support a black plaintiff in a racial discrimination suit.

**The South Region and Potential Effects**

Finally, previous research demonstrates that the South continues to exhibit its own unique social context. Therefore, we can expect variations in case outcomes based on whether the case is adjudicated in the South. This is important because traditionally speaking; the south is less racially progressive (Glaser 1994; Morris and Monroe 2009; Orey et al. 2011; Voss 1996). The traditional view is still supported by contemporary research (Oliver and Mendelberg 2000).

Researchers frequently examine differences in cases in the South versus the rest of the country. For example, research on death penalty cases and voting rights consistently demonstrates variations in case handling by region (Alesina and Ferrara 2014; Morbitt 1998; Songer and Unah 2006). Research already highlights that southern judges are less favorable to black plaintiff’s and defendants (Collins and Moyer 2008; Kastellec 2013; Vines 1949). However, some research on employment discrimination posits that southern appellate judges, when compared to northern ones, are more plaintiff friendly in employment discrimination suits (Songer and Davis 1990).

As with the influence of a judge’s race and gender, these local effects relate to standards concerning race and gender, and not discrimination in general. This examination of community standards thus provides even more reason to analyze race and sex cases separate from each other.

**The Intersection of the Personal and Local Context**

If the law is a social process, and indeed one that is spatially embedded, then an understanding of case processing and determinations will treat seriously the ways in which judicial decision-making and/or potential biases are themselves embedded in local contexts. It is for this reason
that I include in my analyses consideration of how local social context influences judges differently, depending on a judges’ race or gender. For example, while I predict that southern judges will be more defendant friendly in race cases, black and white judges in the south may reflect that effect differently.

It is plausible, and for several reasons, that judges of color in defendant friendly, south, Republican, or rural districts, may be more conservative than their white counterparts will. First, judges of color may experience more normative pressure to demonstrate that they reflect community values. A second reason that underlies this expectation is that for a black attorney to be considered for a judgeship in these districts, they may have to be clearly friendly to local values (i.e., a judge selection effect). If this is, in fact, the case, more moderate or even progressive black judges may be selected out of the process or, at the very least, experience more pressure to conform. I suspect that the same may hold true for female judges: those in Republican divisions will be less plaintiff friendly in sex cases than their male counterparts.
Chapter 3: Data and Measures

Data

The primary data come from the EEOC Litigation Project (Kim, Martin, and Schlanger 2013) which is composed of case details for a random stratified sampling of employment discrimination lawsuits filed in federal courts around the country between 1996 and 2006 by the Equal Employment Opportunity Commission (Boyd 2016). This data set is composed entirely of cases where a neutral party, the EEOC, has already determined there is good evidence that discrimination occurred. As such, plaintiffs experience higher success rates compared to the general employment discrimination docket. While this limits the breadth of case strength, it eliminates the concern that a high volume of frivolous cases, which judges uniformly decide, could hide variations in decision-making (Boyd 2016). I limit my cases to cases alleging race or sex discrimination. In line with previous research, I exclude race claims brought by white plaintiffs and sex claims brought by males (Boyd 2016).

The strength of the cases emerges from the specific EEOC screening process that occurs before these particular cases ended up in court. This screening process focuses on finding cases with merit, and then filing them in federal court. In a mere 3% of cases does the EEOC find merit and file a lawsuit on behalf of the employee (Nielsen et al. 2008). Thus, the cases represented in this data reflect those within which there is moderate to reasonable support backing the plaintiff’s position. Though limited in the sense of being not necessarily reflective of all cases filed each year at state of Federal levels, such data are important for my purposes owing to the fact that: (1) they provide significant detail on case proceedings and decision-making, and; (2) offer necessary and important variations on my two outcomes of interest (i.e., decision-making on motions during the case proceedings, and final decision-making on the case itself).

**Measurement**

Two key dependent variables are the focus of my analyses. Both center on whether the plaintiff or defendant won motions and the case itself? These measures both address the question central to the literature: What is illegal discrimination? The first captures decision-making on discrete motions within each case. A motion is a filing by the plaintiff or defendant that asks the judge to make a particular decision in favor of the party filing the motion. They can address a variety of topics, such as requesting dismissal of the case, a verdict in favor of the plaintiff, instructions to a party to produce a piece of evidence, or permission to avoid providing that evidence. Many of these motions, known as motions for summary judgment, explicitly ask the judge to rule if the alleged behavior was discriminatory or not.
The second dependent variable looks at the final case outcome (i.e., did the plaintiff or defendant win the case. I coded this variable based on the type of decision rendered, with some, such as monetary settlements or jury awards coded as plaintiff wins, while others, such as dismissals of the case and jury verdicts for the defendant, were coded as defendant wins. It is important to include this second outcome, as it helps capture the effect social context has on parties other than the judge. For a motion, the judge is the only decision maker. With this second outcome, I am considering settlements, jury verdicts, and judge verdicts. Therefore, different effects of social context may be present depending on the outcome being considered.

My core independent variables include the race and gender of the judge and three variables connected to location: urbanality, politics, and south v not south. All variables, except the political measure, are coded as dummy variables. Judicial race uses African American as the reference group. Due to their still limited numbers in the federal judiciary, Latino, Native American, and Asian American judges were omitted from my analysis. Judge sex uses female as the reference category. Urbanality uses with non-rural as the reference category. The southern variable uses non-southern as the reference category. Following previous research, I define the south as the Confederacy, which includes Alabama, Georgia, Florida, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Texas, and Virginia, plus the addition of Kentucky, which is defined as Southern in various literature (Glaser 1994; Jacobs, Carmichael, and Kent 2005; King, Messner, and Baller 2009; Morbitt 1998). Finally, the political variable is a mean-centered continuous measure of total percentage of Republican voters in the division. This is measured based on the total number of Republican votes cast in the 1996, 2000, 2004, and 2008 elections.

I also include in my analyses controls for whether the motion/case has a private attorney on it, the party of the judge, whether the case was a class action and whether it was decided in the...
2nd or 3rd circuit or one of the other eleven. While all the cases have an attorney on them, there is evidence suggesting private attorneys are better equipped to represent plaintiffs than the EEOC attorney (Selmi 1996). This variable also helps control for overall case quality as private attorneys evaluate the likelihood of case success before agreeing to take it (Goodman-Delahunty et al. 2010). It also accounts for concerns about unequal access to private attorneys depending on location.

In line with previous research, I control for the party of the judge as voting patterns and political party are correlated (Boyd et al. 2008; Pinello 1999; Sisk et al. 1998; Songer and Davis 1990). Additionally previous research demonstrates that some of the perceived effects of race and gender, could be related to the judge’s party, because judges of color and female judges are more likely to be Democrats (Collins and Moyer 2008; Davis et al. 1993; Songer and Johnson 2009).

I control for class actions, as cases with multiple plaintiffs are likely to be stronger cases, as there are more plaintiffs alleging the same thing. Previous research demonstrates that class actions tend to be more successful (Hirsh 2008; Nielsen et al. 2008). Class action lawsuits are more common in the south than outside the south. Controlling for this helps to avoid confusing a positive class action effect with a positive southern effect.

I control for the circuit court because these courts can constrain the decisions of the judges I am studying. My measure looks at whether the case occurred in the 2nd or 3rd circuit, or one of the remaining ten. This division has been used in previous research, as the 2nd and 3rd circuit as seen as more plaintiff oriented in employment discrimination cases (Garnett 2012; Hirsh 2009). Omitting this variable could alter the findings of the local influences. If all courts under a very conservative circuit showed more defendant oriented rulings compared to courts under a more liberal circuit, it is possible that the local effect would diminish. This is because every circuit will have urban and rural areas and liberal and conservative ones. Therefore, it could
appear that urban areas were not acting consistently differently than rural areas. However, if we could see that all local courts in a district were constrained, then it would highlight the variations between rural and urban within that system of constraint (Boyd 2016; Collins and Moyer 2008; Scott 2006).

When examining individual motions I also include controls for whether the motion addresses a discovery issues or a substantive one, as discovery motions are far more likely to be decided in the plaintiff’s favor. I also control for the number of motions filed in the case, as a greater number of motions may indicate a party is filing more motions that are frivolous. When examining my case level outcome, I also control for the percentage of motions in the case won by the plaintiff as winning motions plays a role in winning cases.
Chapter 4: Analytic Strategy and Results

A two-outcome logistic regression forms the backbone of my analysis. Logistic regression is common for analysis of legal decisions (Best et al. 2011; Boyd 2016; Gryski, Main, and Dixon 1986; Steffensmeier and Britt 2001). This is well suited for my research, as it measures what factors increase or decrease the odds of a plaintiff prevailing. As stated above, these two outcomes help to measure what is defined as discrimination.

As my analysis occurs at two levels, motions and final case outcomes, I report descriptives for both outcomes. Table 1 contains the values at the motion level. Table 2 contains the values at the case level. Since some cases have multiple motions, the overall sample size changes depending on the outcome being examined. For instance, if a case in the south had three motions, there would be three counts of a southern motion in my motions descriptive table, but only a single count relative to overall case determination. Additionally, because each case can have multiple judges, the individual background variable do not reflect individual judges, but rather examine whether the majority of the judges handling the case were white, male, or Republican.

There is little variation in my dependent and independent variables by case type. For example, plaintiffs win about 75% of the motions and around 87% of the cases, regardless of whether it is a race or sex discrimination case. This success rate does not reflect employment discrimination cases generally, but is a function of the EEOC case screening and selection process. There is, nevertheless, significant enough variation at the motion and case determination levels to pick up systematic differences and/or biases.
Cases are randomly assigned to judges, so we should not expect any substantial differences in judge race, sex, and party based on case type. We do see that African American and female judges are slightly more likely to handle race cases than other types. While the judges are assigned randomly, we might expect some differences in the structural variables based on case type; for example, we might expect cases alleging race discrimination to be more likely in the south. Preliminary examinations of the data indeed suggest this to be the case for race cases, while sex discrimination cases tend to be more likely in rural areas. The mean percentage-voting Republican is slightly lower in cases alleging race discrimination versus those alleging sex discrimination. Sex cases are also more likely to have a private attorney on the case than race cases.

[Tables 1 and 2 about here]

These initial descriptives generally support previous research findings demonstrating a link between a judge’s race in race discrimination cases, and their sex in sex discrimination cases, but go further and also suggest potentially important contextual variations. My analyses that follow, in fact, show that in race cases, rurality exerts a negative influence on plaintiff success. Additionally, judge race interacts with the case’s presence in the south and the percentage of Republican voters in the division, creating divergent effects for white and black judges. Such interactions do not reach statistical significance in the case of gender, although the findings do suggest some influential patterns relative to judge background.

The Influence of Judicial Attributes and Social Context in Race Discrimination Cases

At the motion level of analysis, I report three models in Table 3. The first includes judge characteristics and context indicators, along with the control variables. The second model adds an interaction between judge race and percentage of Republican voters in the division. The final
model removes the judge race and percentage of Republican voters in the division interaction, and replaces it with an interaction between the judge race and the case being in the south.

As the reader will note from model 1, white judges exhibit a significant conservative effect on the odds of winning a motion. If a motion is before a white judge, it has about half the chance of being decided in the plaintiffs favor compared to that same motion before a black judge. This means that white judges as more defendant friendly than black judges, and would decide in the defendants favor about twice as often as black judges. Among the control variables, discovery motions are 1.6 times more likely to win than non-discovery motions. Where there is a private attorney, plaintiffs are 1.83 times more likely to win motions. These controls remain significant throughout the three models and vary little in magnitude.

Table 3 about here

In the second model, I add an interaction between the judge’s race and the percentage of Republican voters in the division. The percent voting Republican becomes significant, as does the interaction term. The percent voting Republican is positive, the white judge coefficient and interaction term are negative, indicating that as divisions increase in the percentage of Republican voters, black judges are more likely to rule for plaintiffs, while white judges become less likely to rule for plaintiffs. These results are depicted in Figure 1.

Figure 1 About Here

In the third model, I add an interaction between judge race and whether the case is in the south or not. In this model, the white judge coefficient is negative, the south coefficient is positive, while the judge white in the south interaction is negative. The results are such that white judges are equally likely to rule in a plaintiff’s favor whether they are in the south or not. Black judges on the other hand, while always more likely than white judges to rule in favor of plaintiffs, are more likely to do so in the south than outside the south. Holding all other variables at their
means, a motion before a black judge in the south has a 98% chance of being decided in the plaintiff’s favor, versus a 79% chance if it is before a black judge in the north. For white judges, the chances are 75%, regardless of location. Figure 2 provides a visual representation of this interactive effect.

[Figure 2 about here]

[Table 4 about here]

Table 4 reports the final case outcome for cases alleging race discrimination. Because multiple judges can handle a single case, I base the judge variables on the sex and party of a majority of the judges on the case. Due to a reduction in the number of observations and the strong correlation between the majority judge race variable and the outcome (i.e., the plaintiff winning the case), the judges’ race is no longer part of the model. I also include the percentage of motions in the case decided in the plaintiff’s favor, as this likely exerts strong mediating influence on whether the plaintiff wins the case.

The percentage of motions won by the plaintiff, modeled previously, is strong and significant impact. The rural dummy variable is likewise significant. Cases in rural divisions are about 26% as likely to result in a plaintiff win compared to cases in non-rural divisions. None of the other variables is significant when looking at the final case outcome result. This is largely suggestive of the possibility that bias in case determination is likely not direct, but rather operates through the processing of cases and especially determinations on case motions.

The Influence of Judge Attributes and Social Context in Sex Discrimination Cases

My analysis of motions in sex cases, reported in Table 5 and in a manner paralleling the prior analyses of race motions, includes three models. The first model consists of the personal judge and social context, plus the control variables. The second model includes an interaction between
judge gender and local politics. The third model includes an interaction between judge gender and whether the case is in the south. The second and third models mirror the significant interactions from my race models. However, these interactions do not reach statistical significance in sex cases, suggesting that sex cases are not as subject to local influences as are race cases.

[Table 5 about here]

Among individual attributes, male judges are about half as likely to rule in favor of the plaintiff compared to female judges. The effect of the judges’ race is not significant. Cases that only alleged sex discrimination are about 1.5 times more likely to be decided in the plaintiffs favor compared to cases alleged both race and sex discrimination. As in the race cases, discovery motions are about 1.6 times more likely to be decided in the plaintiffs favor when compared to non-discovery motions. The presence of a private attorney also improves the odds of the plaintiff winning their motion.

At the case level, I examined one model, reported in Table 6. As in the race cases, the model includes all the judge attributes, context indicators and control variables and also includes the percentage of motions won by the plaintiff variable. As in race cases, I dropped the judge race variable from my models. Notably, none of the individual judge attributes or local context indicators are significant when looking at the case level outcome. The percentage of motions won, however, is a strong and significant predictor, increasing the odds of winning the case. As noted earlier, this suggests that the processing of cases, the motions throughout, and any biases therein, are where the action and potential bias, if any lies.
Chapter 5: Discussion

In contrast to research focusing solely on the influence of judicial race and gender, the present research demonstrates that legal cases are social processes influenced by both the judge(s) on the case and the social context of where the case was decided. When looking solely at allegations of race discrimination, my findings confirm the result of some prior work that white compared to African American judges are less likely to rule in favor of a plaintiff’s motions. My hypothesis that Republican leaning areas would be less plaintiff friendly is partially supported. While the baseline model suggests no effect, the interaction model highlights a more complex effect on a plaintiff’s chances of winning. White judges show a gradual decline in the likelihood of ruling for a plaintiff as Republican voting in an area increases, whereas black judges exhibit an increased likelihood within the same political context. The decreased odds of a white judge ruling for the plaintiff as Republicanism increases in the division could be due to a normative or judicial selection influence. On the other hand, black judges may be more likely to believe allegations of race discrimination in more conservative districts, due to the historic connection between race discrimination and conservative ideology.

The results do not support my hypothesis that the south would be unfriendly to plaintiffs. The baseline modeling reveal no unique southern effect. The interaction model, however, suggests that black judges in the south are more likely to rule for plaintiffs on motions, while white judges were no more or less likely when the case is in the south. This lends at least some support for the possibility that black judges may be more likely to believe allegations of race discrimination.
discrimination in areas traditionally seen as likely to support discrimination, conservative and southern locations.

Analyses of outcomes at the case level were largely in line with my earlier expectation that rural areas would be less friendly to plaintiffs alleging race discrimination. What is surprising, however, is that this effect only shows up at the case rather than motion level. Future work might consider more precisely how and why this case-level effect exists. It may be the case that the motion-level outcome only captures the impact of social context on judges, while the case level outcome entails also the effect of juries, attorneys, and parties, in addition to the judge.

It is notable that, in the case of sex discrimination cases, neither social context or interaction effects are observed at either motion or case levels. The lack of a locational effect may be because unlike race, the populations of men and women tend not to vary by region. Additionally, it may be the case that sex discrimination and views about gender roles, unlike race, are not as rooted in specific regions and may exist more consistently across the United States.

My findings on race and sex suggest that the impact of context on legal processing may very well vary depending on the form of discrimination we are talking about. While previous research demonstrated that a judge’s race is relevant to race discrimination cases, and their sex was relevant to sex discrimination cases, we can now see that a case’s location in rural areas is relevant to race cases, but not to sex cases. Additionally, race cases demonstrate more interactions between personal and structural characteristics compared to sex cases.

My research raises two additional questions, which may provide fruitful avenues for future research. The foregoing analysis proceeds from the position that the strength of cases is consistent across regions. The strength of this data set comes from the fact that the EEOC already vetted the cases and determined they had merit before filing a lawsuit. However, it is reasonable to ask if the cases the EEOC deem worthy of filing in court varies by region. Private attorneys are
in the business of winning money and government attorneys are conscious of properly allocating public resources to winning cases. Therefore, if EEOC attorneys are already aware that race cases in the south are less likely to win than race cases outside the south, then they may change their decisions about what to file. Objectively, the cases filed in the south may be stronger than those filed in other regions. Therefore, a southern effect may exist, but it influences which cases the EEOC files.

With the data at hand, I cannot answer the question raised above. However, future interviews of EEOC attorneys could provide insight. The presence of the southern and judge race interaction effect lends some support to this speculation, as the EEOC cannot know the judge’s race before a case is filed, but they can know the region. If the south as a whole is less plaintiff friendly in race cases, owing to the white judges alone, we would see no effect of the southern variable. However, the judge race and southern interaction could indicate that black judges are reacting to the strong races cases filed in the south, while biased white judges in the south do not see the strong cases as particularly impressive.

The second, equally pressing question for future work surrounds the unexpected association between the party appointing judges and the voting patterns of the division they work in. We might expect that judges appointed by Republicans might wait for another Republican before they retire, thus ensuring a Republican appointed replacement. Since the party of the president at the time of appointment is associated with the current voting patterns of the division, it may be the case that not only may judges be waiting for a particular party to hold the presidency before they retire, but that this behavior may be stronger when the judge works in a district with voting patterns matching the party of the president who appointed them. This connection deserves further analysis, as it will help tease out more systematically why and how local political leanings and voting patterns are actually mattering.
Chapter 6: Conclusions

This research demonstrates that the process of defining employment discrimination in the courtroom is shaped by background attributes of legal decision makers and, at least to some degree, by social context in which a given legal case is processed. We already knew, based on prior work, that the background attributes of judges would likely matter. There has been less attention to local conditions, however, and how they might intersect with judicial decision-making. Doing so, as my analyses have, contributes to our understanding of the law as a socially constructed phenomenon, with decision-making of decision-makers being at least partially shaped by the context within which they reside.

The interactions between judges and social context are particularly important for federal laws. Congress enacted anti-discrimination law at the federal level as a way to fight local behavior, when local governments were not doing enough. However, if the law’s power to enact social change and reduce racial and gender inequality in the workplace is dependent on plaintiffs winning cases, then inconsistent application of the law means inconsistent change. The present research has demonstrated that local social context can create variations in enforcement. Future research should examine whether unequal application of federal law across regions results in different levels of racial and gender inequality across those regions. Additionally, more research is needed on other local social context factors that contribute to such unequal application. By doing so, researchers will help identify why inequality and discrimination in employment still exist in varied levels throughout the country. A federal law, which fails to enact nationwide change, would clearly be in need of repair, and such research could provide some insight for necessary changes.
References


of Racial Harassment Cases.


Fox, Richard and Robert Van Sickel. 2000. “Gender Dynamics and Judicial Behavior in Criminal


Pew Research Center. 2007. *Optimism about Black Progress Declines: Blacks See Growing Values Gap Between Poor and Middle Class*.


Appendix: Tables and Figures

Table 1. Motion Level Descriptive Statistics

<table>
<thead>
<tr>
<th></th>
<th>Race Motions Mean/Percent</th>
<th>Race Motions SD</th>
<th>Sex Motions Mean/Percent</th>
<th>Sex Motions SD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Plaintiff Win</td>
<td>75.07%</td>
<td></td>
<td>76.02%</td>
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<tr>
<td>White Judges (^a)</td>
<td>86.81%</td>
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<td>91.39%</td>
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</tr>
<tr>
<td>Male Judges (^b)</td>
<td>82.61%</td>
<td></td>
<td>85.08%</td>
<td></td>
</tr>
<tr>
<td>Republican Judges (^c)</td>
<td>56.52%</td>
<td></td>
<td>60.04%</td>
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</tr>
<tr>
<td>South (^d)</td>
<td>35.65%</td>
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<td>33.93%</td>
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</tr>
<tr>
<td>Small/Rural (^e)</td>
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</tr>
<tr>
<td>Percent Voting Republican</td>
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<td>0.102</td>
<td>0.472</td>
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<tr>
<td>Discovery Motion (^f)</td>
<td>65.51%</td>
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<td>59.59%</td>
<td></td>
</tr>
<tr>
<td>Private Attorney (^g)</td>
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<td></td>
<td>71.58%</td>
<td></td>
</tr>
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<td>Number of Motions</td>
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<td>5.740</td>
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<tr>
<td>Class Action (^h)</td>
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<tr>
<td>Outside 2nd and 3rd Circuit (^i)</td>
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<td>Only Alleging Sex</td>
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<tr>
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<td></td>
<td></td>
<td>690</td>
<td>1,126</td>
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</tbody>
</table>

\(^a\) Reference Category is African American Judges  
\(^b\) Reference category is female judges  
\(^c\) Reference category is judges appointed by Democratic presidents  
\(^d\) Reference category is cases outside the south  
\(^e\) Reference category is non-rural areas  
\(^f\) Reference category is motions that do not address any discovery question  
\(^g\) Reference category is cases with only an EEOC attorney representing the plaintiff  
\(^h\) Reference category is cases with a single plaintiff  
\(^i\) Reference category is cases from the 2nd and 3rd circuit.
Table 2. Case Level Descriptive Statistics

<table>
<thead>
<tr>
<th></th>
<th>Race Cases Mean/Percent</th>
<th>SD</th>
<th>Sex Cases Mean/Percent</th>
<th>SD</th>
</tr>
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<tbody>
<tr>
<td>Plaintiff Win</td>
<td>86.55%</td>
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<td>88.59%</td>
<td></td>
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<tr>
<td>White Judges (a)</td>
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<td>91.56%</td>
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<td>Male Judges (b)</td>
<td>77.31%</td>
<td></td>
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<tr>
<td>Republican Judges (c)</td>
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<td>60.04%</td>
<td></td>
</tr>
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<td>South (d)</td>
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<td></td>
<td>37.47%</td>
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</tr>
<tr>
<td>Small/Rural (e)</td>
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<td></td>
<td>15.88%</td>
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</tr>
<tr>
<td>Percent Voting Republican</td>
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<td>0.100</td>
</tr>
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<td>Private Attorney (f)</td>
<td>52.94%</td>
<td></td>
<td>61.79%</td>
<td></td>
</tr>
<tr>
<td>Number of Motions</td>
<td>0.785</td>
<td>0.322</td>
<td>0.794</td>
<td>0.310</td>
</tr>
<tr>
<td>Class Action (g)</td>
<td>51.26%</td>
<td></td>
<td>51.61%</td>
<td></td>
</tr>
<tr>
<td>Outside 2nd and 3rd Circuit (h)</td>
<td>87.82%</td>
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<td>Only Alleging Race</td>
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<td>Only Alleging Sex</td>
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<td>Alleging Race &amp; Sex</td>
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<td>N</td>
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\(a\) Reference Category is African American Judges  \(b\) Reference category is female judges  \(c\) Reference category is judges appointed by Democratic presidents  \(d\) Reference category is cases outside the south  \(e\) Reference category is non-rural areas  \(f\) Reference category is cases with only an EEOC attorney representing the plaintiff  \(g\) Reference category is cases with a single plaintiff  \(h\) Reference category is cases from the 2\(^{nd}\) and 3\(^{rd}\) circuit.
<table>
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<tr>
<th>Variable</th>
<th>Model 1 Odds Ratio (RSE)</th>
<th>Model 2 Odds Ratio (RSE)</th>
<th>Model 3 Odds Ratio (RSE)</th>
</tr>
</thead>
<tbody>
<tr>
<td>White Judges(^a)</td>
<td>.478* (.153)</td>
<td>.306** (.117)</td>
<td>.791 (.291)</td>
</tr>
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<td>Male Judges(^b)</td>
<td>1.037 (.284)</td>
<td>.964 (.269)</td>
<td>1.032 (.282)</td>
</tr>
<tr>
<td>Republican Judges(^c)</td>
<td>1.349 (.286)</td>
<td>1.303 (.283)</td>
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<td>South(^d)</td>
<td>1.115 (.281)</td>
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<td>White Judges X South</td>
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<td></td>
</tr>
<tr>
<td>Discovery Motion(^g)</td>
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<td>1.676* (.359)</td>
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<tr>
<td>Private Attorney(^h)</td>
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<td>1.768* (.425)</td>
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<td>Number of Motions</td>
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<td>Class Action(^i)</td>
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<tr>
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<td>.797 (.323)</td>
</tr>
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<td>2.447 (1.367)</td>
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<td>1.632 (.928)</td>
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<td>0.044</td>
</tr>
<tr>
<td>Chi(^2)</td>
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<td>0.004</td>
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<tr>
<td>N</td>
<td>690</td>
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</tbody>
</table>

\(^a\) Reference Category is African American Judges  
\(^b\) Reference category is female judges  
\(^c\) Reference category is judges appointed by Democratic presidents  
\(^d\) Reference category is cases outside the south  
\(^e\) Reference category is non-rural areas  
\(^f\) Reference category is cases alleging sex discrimination in addition to race and other forms of discrimination  
\(^g\) Reference category is motions that do not address any discovery question  
\(^h\) Reference category is cases with only an EEOC attorney representing the plaintiff  
\(^i\) Reference category is cases with a single plaintiff  
\(^j\) Reference category is cases from the 2\(^{nd}\) and 3\(^{rd}\) circuit.
Table 4. Logistic Regression Models of Effects of Judicial and Regional Variables on Race Cases

<table>
<thead>
<tr>
<th>Model 1</th>
<th>Odds Ratio (RSE)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Majority White Judges (^a)</td>
<td>N/A</td>
</tr>
<tr>
<td>Majority Male Judges (^b)</td>
<td>0.776 (.504)</td>
</tr>
<tr>
<td>Majority Republican Judges (^c)</td>
<td>0.677 (.392)</td>
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<tr>
<td>South (^d)</td>
<td>0.921 (.521)</td>
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<tr>
<td>Small/Rural (^e)</td>
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<tr>
<td>Percent Voting Republican</td>
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<tr>
<td>Only Alleging Race (^f)</td>
<td>0.994 (.588)</td>
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<tr>
<td>Private Attorney (^g)</td>
<td>1.352 (.666)</td>
</tr>
<tr>
<td>Percent of Motions Won by Plaintiff</td>
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<tr>
<td>Class Action (^h)</td>
<td>1.778 (.847)</td>
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<tr>
<td>Outside 2nd and 3rd Circuit (^i)</td>
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<tr>
<td>Chi(^2)</td>
<td>.000</td>
</tr>
<tr>
<td>N</td>
<td>238</td>
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</tbody>
</table>

\(^a\) Reference Category is African American Judges
\(^b\) Reference category is female judges
\(^c\) Reference category is judges appointed by Democratic presidents
\(^d\) Reference category is cases outside the south
\(^e\) Reference category is non-rural areas
\(^f\) Reference category is cases alleging sex discrimination in addition to race and other forms of discrimination
\(^g\) Reference category is cases with only an EEOC attorney representing the plaintiff
\(^h\) Reference category is cases with a single plaintiff
\(^i\) Reference category is cases from the 2\(^{nd}\) and 3\(^{rd}\) circuit.

\(p<.1 \quad * p<.05 \quad ** p<.01 \quad *** p<.001\)
Table 5. Logistic Regression Models of Effects of Judicial and Regional Variables on Sex Motions

<table>
<thead>
<tr>
<th></th>
<th>Model 1 Odds Ratio (RSE)</th>
<th>Model 2 Odds Ratio (RSE)</th>
<th>Model 3 Odds Ratio (RSE)</th>
</tr>
</thead>
<tbody>
<tr>
<td>White Judges(^a)</td>
<td>0.841 (.240)</td>
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<td>.849 (.242)</td>
</tr>
<tr>
<td>Male Judges(^b)</td>
<td>.520* (.137)</td>
<td>.518* (.138)</td>
<td>.632 (.222)</td>
</tr>
<tr>
<td>Republican Judges(^c)</td>
<td>1.167 (.195)</td>
<td>1.173 (.197)</td>
<td>1.133 (.196)</td>
</tr>
<tr>
<td>South(^d)</td>
<td>1.050 (.182)</td>
<td>1.048 (.182)</td>
<td>1.595 (.741)</td>
</tr>
<tr>
<td>Small/Rural(^e)</td>
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<td>1.110 (.256)</td>
<td>1.108 (.256)</td>
</tr>
<tr>
<td>Percent Voting Republican</td>
<td>.986 (.009)</td>
<td>.978 (.018)</td>
<td>.986 (.009)</td>
</tr>
<tr>
<td>Only Alleging Sex(^f)</td>
<td>1.586* (.333)</td>
<td>1.590* (.334)</td>
<td>1.571* (.331)</td>
</tr>
<tr>
<td>White Judges X %Republican</td>
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<td></td>
<td></td>
</tr>
<tr>
<td>White Judges X South</td>
<td></td>
<td></td>
<td>.618 (.310)</td>
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<td>Discovery Motion(^g)</td>
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<td>1.591** (.254)</td>
<td>1.606** (.256)</td>
</tr>
<tr>
<td>Private Attorney(^h)</td>
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<td>1.663** (.298)</td>
<td>1.651** (.296)</td>
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<td>.977* (.009)</td>
<td>.976** (.009)</td>
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<td>.859 (.138)</td>
<td>.863 (.138)</td>
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<td>.978 (.323)</td>
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<td>0.034</td>
<td>0.035</td>
</tr>
<tr>
<td>Chi(^2)</td>
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<td>N</td>
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</tbody>
</table>

\(^a\) Reference Category is African American Judges  
\(^b\) Reference category is female judges  
\(^c\) Reference category is judges appointed by Democratic presidents  
\(^d\) Reference category is cases outside the south  
\(^e\) Reference category is non-rural areas  
\(^f\) Reference category is cases alleging race discrimination in addition to sex and other forms of discrimination  
\(^g\) Reference category is motions that do not address any discovery question  
\(^h\) Reference category is cases with only an EEOC attorney representing the plaintiff  
\(^i\) Reference category is cases with a single plaintiff  
\(^j\) Reference category is cases from the 2nd and 3rd circuit.

p<.1 * p<.05 ** p<.01 ***p<.001
Table 6. Logistic Regression Models of Effects of Judicial and Regional Variables on Sex Cases

<table>
<thead>
<tr>
<th>Model 1</th>
<th>Odds Ratio (RSE)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Majority White Judges&lt;sup&gt;a&lt;/sup&gt;</td>
<td>N/A</td>
</tr>
<tr>
<td>Majority Male Judges&lt;sup&gt;b&lt;/sup&gt;</td>
<td>.450 (.311)</td>
</tr>
<tr>
<td>Majority Republican Judges&lt;sup&gt;c&lt;/sup&gt;</td>
<td>.487 (.226)</td>
</tr>
<tr>
<td>South&lt;sup&gt;d&lt;/sup&gt;</td>
<td>1.549 (.678)</td>
</tr>
<tr>
<td>Small/Rural&lt;sup&gt;e&lt;/sup&gt;</td>
<td>.906 (.486)</td>
</tr>
<tr>
<td>Percent Voting Republican</td>
<td>1.005 (.022)</td>
</tr>
<tr>
<td>Only alleging sex&lt;sup&gt;f&lt;/sup&gt;</td>
<td>1.338 (.835)</td>
</tr>
<tr>
<td>Private Attorney&lt;sup&gt;g&lt;/sup&gt;</td>
<td>3.334** (1.251)</td>
</tr>
<tr>
<td>Percent of Motions Won by Plaintiff</td>
<td>1.015** (.005)</td>
</tr>
<tr>
<td>Class Action&lt;sup&gt;h&lt;/sup&gt;</td>
<td>3.440** (1.285)</td>
</tr>
<tr>
<td>Outside 2nd and 3rd Circuit&lt;sup&gt;i&lt;/sup&gt;</td>
<td>N/A</td>
</tr>
<tr>
<td>Constant</td>
<td>2.417 (2.356)</td>
</tr>
<tr>
<td>Psuedo R²</td>
<td>0.163</td>
</tr>
<tr>
<td>Chi²</td>
<td>.000</td>
</tr>
<tr>
<td>N</td>
<td>402</td>
</tr>
</tbody>
</table>

<sup>a</sup>Reference Category is African American Judges  
<sup>b</sup>Reference category is female judges  
<sup>c</sup>Reference category is judges appointed by Democratic presidents  
<sup>d</sup>Reference category is cases outside the south  
<sup>e</sup>Reference category is non-rural areas  
<sup>f</sup>Reference category is cases alleging race discrimination in addition to sex and other forms of discrimination  
<sup>g</sup>Reference category is cases with only an EEOC attorney representing the plaintiff  
<sup>h</sup>Reference category is cases with a single plaintiff  
<sup>i</sup>Reference category is cases from the 2nd and 3rd circuit.

<sup>**p<.1 * p<.05 ** p<.01 ***p<.001</sup>
Figure 1. Influence of Division Politics and Judge Race on Plaintiff’s Odds of Winning a Motion in a Race Case.

Figure 2. Influence of Locale and Judge Race on Plaintiff’s Odds of Winning a Motion in a Race Case.