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## OPPOSING VIEWS

### Does President Obama's Administration Discourage Setting Up Small Businesses?

Submitted by [CEI](#) on Jun 28, 2012

The EEOC has [punished a cafe owner](#) for not selecting a hearing- and speech-impaired applicant for a cashier's position, even though such impairments obviously affect the applicant's qualifications for the job. In essence, hiring based on merit has been declared illegal by the EEOC.

Under threat of continued costly litigation, the cafe has agreed to pay \$20,000 and submit to various bureaucratic dictates. The EEOC's aggressive anti-business interpretation of the Americans with Disabilities Act (ADA) reflects its left-wing majority under the Obama administration, which has appointed anti-business [extremists to the EEOC](#). The Obama Justice Department has also interpreted the ADA in ways that [harm consumers](#), like delaying the sale of new wireless devices such as [talking Kindle Readers](#), and backing a lawsuit that [blocked an expansion](#) in the number of taxicabs operating in [New York City](#).

No wonder even Democratic businessmen like Steve Wynn are worried about the anti-business political climate fostered by the Obama administration. Wynn [called Obama](#) "the greatest wet blanket to business and progress and job creation in my lifetime," saying that "the business community in this country is frightened to death of the weird political philosophy of the President of the [United States](#). And until he's gone, everybody's going to be sitting on their thumbs."

In other [news](#), a "federal judge has [declined to dismiss](#) a lawsuit against Netflix arguing that its Watch Instantly streaming viewing service violates the rights of deaf persons under the Americans with Disabilities Act because many of the movies it offers lack closed captioning." Walter Olson of the Cato Institute notes that this is [bad news for consumers](#), since "the high cost of adding accessibility features to all online [entertainment](#) services could pose an undue burden on Internet companies and lead to reduced choices for consumers," forcing "Netflix to serve markets that it currently doesn't find profitable to serve," which "could prompt online video companies to refrain from

stocking obscure and unusual films, to avoid the expense of adding subtitles to movies that few customers will want to see.” Lawsuits like this are an impediment to innovation, consumer choice, and job creation.

The Obama administration has encouraged firms to move overseas by interfering with employers’ merit-based hiring, and by imposing a wide array of costly, harmful new labor and [employment rules on American manufacturers](#). The Obama administration has altered and expanded agency interpretations of federal labor, employment, disabilities-rights, and discrimination laws in ways that impose costly burdens on businesses and consumers. The Obama EEOC recently [sued Pepsi for doing criminal](#) background checks on job applicants, forcing it to pay \$3.1 million to settle the lawsuit. The EEOC is also [threatening employers who require high-school diplomas](#) with [lawsuits](#) under the ADA.

Employers’ ability to hire and fire based on merit has been curtailed by the EEOC, which has ordered employers to discard useful employment tests and accommodate incompetent employees. For example, a [hotel chain](#) was recently [compelled to pay \\$132,500](#) for dismissing an autistic desk clerk who did not do his job properly, in order for it avoid a lawsuit by the EEOC that would have cost it much more than that to defend. The EEOC has [sued companies that quite reasonably refuse](#) to employ truck drivers with a history of heavy drinking, even though companies that hire them will be sued under state personal-injury laws when they have an accident. It has previously [sued other employers who take serious criminal records into account](#), or [use criminal background checks](#), even though employers who hire criminals end up getting sued when those employees commit crimes. The EEOC’s demands thus place employers in an untenable Hobson’s Choice where they can be sued no matter what they do.

Obamacare is also having a negative effect on the business climate. Its burdens on employers may eventually eliminate [as many as 800,000 jobs](#). Obamacare has [caused layoffs](#) in the medical device industry, and [wiped](#) out jobs in other industries.