



**Division of
Human Rights**

ANNUAL REPORT

FY2013-14

Annual Report FY2013-2014

A Message from the New York State Division of Human Rights

The New York State Division of Human Rights (“the Division”) is honored to present to Governor Andrew M. Cuomo, the Legislature, and the people of New York its Annual Report for Fiscal Year 2013-2014.

The Division of Human Rights is the agency charged with enforcing the New York State Human Rights Law. The law ensures equal opportunity in employment, housing, credit, places of public accommodation, volunteer firefighting, and private, non-sectarian educational institutions.

The Division of Human Rights enforces this law through: the investigation, hearing, and resolution of complaints filed by individuals against alleged discriminators; the creation of programs and campaigns designed to inform and educate the public on the effects of discrimination and their rights and obligations under the law; and the development of human rights policies and proposed legislation for the State.

Each year, the Division makes every effort to continue protecting citizens from discrimination and ensure that the Division’s mission and operations are carried out efficiently and effectively.

The Division will continue to take the necessary steps to fulfill the agency’s mission and enact the Human Rights Law’s mandate that “every individual shall have an equal opportunity to participate fully in the economic, cultural and intellectual life of the state.”

History

The present New York State Division of Human Rights can trace its history back to the State War Council of the State of New York Temporary Committee on Discrimination in Employment, created in 1942. One of the main accomplishments of the Committee was the passage of the 1945 Ives-Quinn Anti-Discrimination Bill. Signed on March 12, 1945 by Governor Thomas E. Dewey, the law effectively made New York the first state in the nation to enact legislation prohibiting discrimination in employment based on race, creed, color, and national origin. In doing so, New York also became the first state to establish a permanent agency to enforce such legislation, the State Commission Against Discrimination (SCAD). Federal institutions were not introduced until nearly 17 years later.

In 1968, the Ives-Quinn Anti-Discrimination Law was renamed the Human Rights Law, and the State Commission Against Discrimination was renamed the New York State Division of Human Rights.

In its inception, SCAD had jurisdiction only over employment issues and dealt strictly with discrimination based on race, color, creed, and national origin. In subsequent years, the Law was expanded to reflect the changing culture and needs of New Yorkers.

For example, in 1974, the Law was broadened to protect people with disabilities; in 1991, the Law was amended to protect families in the area of housing; in 1997, the Law was changed to include an express provision requiring reasonable accommodations in employment for persons with disabilities; in 2002, the Law was amended to protect both religious practices and religious observances; in 2003, the Sexual Orientation Non-Discrimination Act was passed to include sexual orientation among the protected traits/characteristics; and in 2003, the Law was extended to encompass military status.

In 2009, the Law was amended to provide protections to domestic violence victims from employment discrimination, and in 2011, it was amended to protect domestic workers from sexual harassment and discrimination based on gender, race, religion or national origin.

In July of 2014, the Law was amended to include protections for unpaid interns from harassment and other forms of unlawful discrimination in the workplace.

Complaint Process

Filing a Complaint

If an individual feels he or she has been the victim of illegal discriminatory behavior, a complaint can be filed at any of the 12 Division offices throughout the state within one year of the date the last discriminatory incident occurred. Complaints can be filed in person in any of our offices. A complaint form can also be downloaded from the Division's website at www.dhr.ny.gov. All complaints must be completed as instructed and signed before a notary public. Completed complaints may be mailed or hand-delivered to our offices.

The Investigation

Once a complaint is filed, an investigator will be assigned to investigate the complaint. This may be conducted through, among other methods, written correspondence, telephone interviews, and visits to the site where the alleged discrimination took place. Based on the information collected during the investigation, a determination will be made as to whether there is probable cause to conclude that unlawful discrimination occurred. A determination of no probable cause will result in the dismissal of the case; this is a final order of the Division that may be appealed in court. If the Division determines that there is probable cause that illegal discrimination took place, the case will advance to the hearing process.

The Administrative Hearing

An Administrative Law Judge will conduct a hearing based on the allegations in the complaint. During the hearing both sides will be able to present evidence to support their positions. The Division will provide an attorney free of charge to present the case in support of the complaint. Complainants may also bring their own attorneys.

Resolution

Based on the evidence presented at the hearing, the Administrative Law Judge will issue a recommended order advising the parties and the Commissioner how they believe the case should be resolved. The Commissioner will review the allegations, the evidence, and the recommended order and will issue a final Commissioner's Order. If the ruling is in favor of the complainant, the Order will specify a remedy. In housing cases, remedies may include a change of policy or practice, provision of services, compensation for emotional distress, punitive damages, among others. In employment cases, remedies may include change in policies and practice, back pay with interest or benefits lost due to the discriminatory practice and/or compensation for emotional distress.

Appeals

Any final order of the Division can be appealed to the New York State Supreme Court within 60 days after it is issued. Appeals from Commissioner's Orders after hearing are transferred to the Appellate Division for disposition.

Budget and Finances

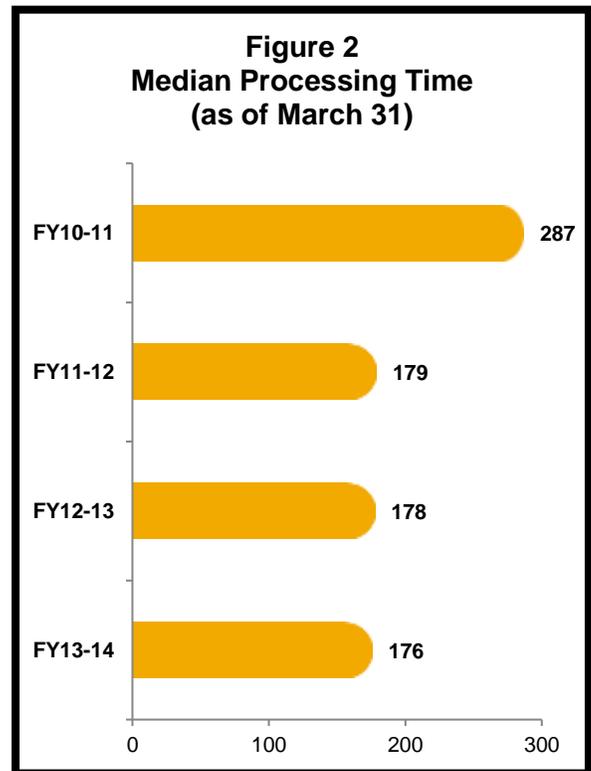
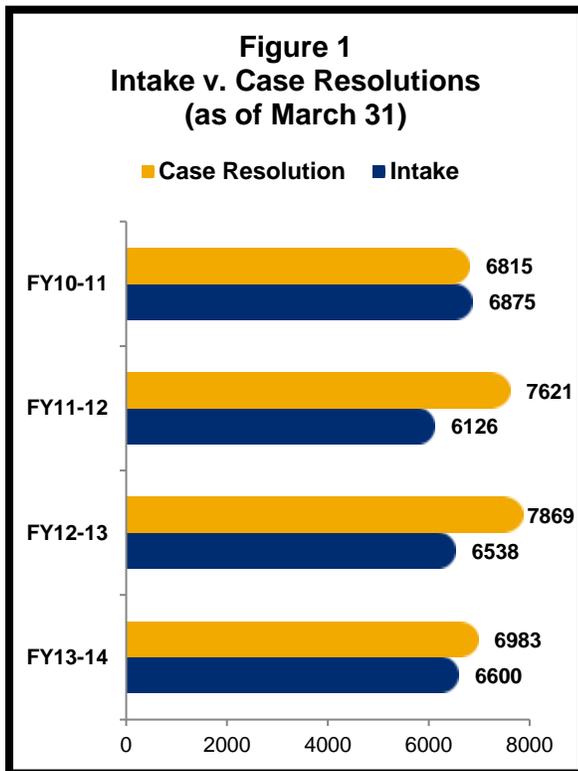
The State of New York operates on a fiscal year commencing each April 1, and ending on the following March 31.

The Division's enacted budget for the 2013-14 fiscal year provided for an all funds appropriation of \$18,744,000, consisting of \$12,744,000 in General Fund (State tax-levy) appropriations and \$6,000,000 in Special Revenue Funds, which are monies provided by the federal government for the Division's program contracts with the U.S. Department of Housing and Urban Development (HUD) and the Equal Employment Opportunity Commission (EEOC).

Division Operating Statistics

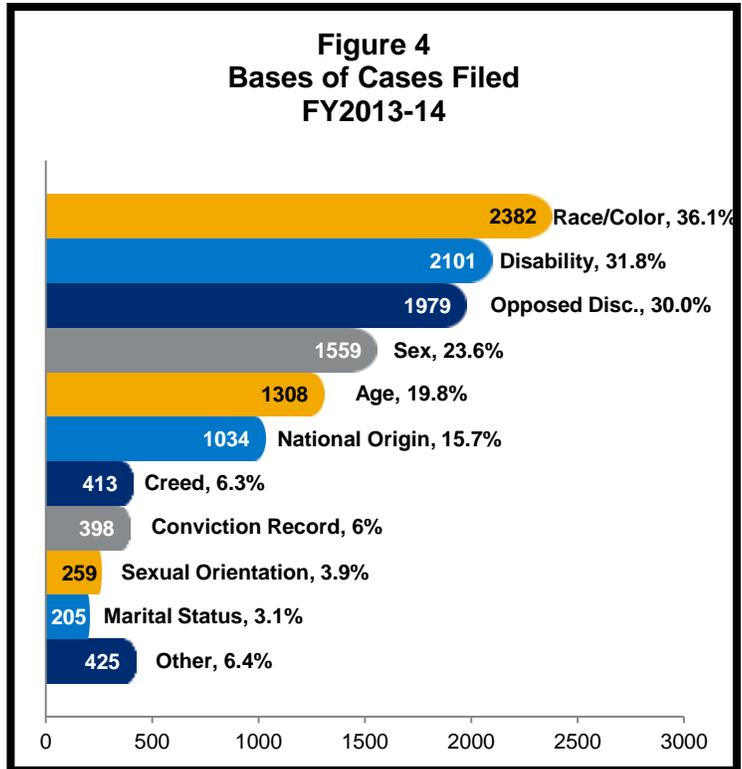
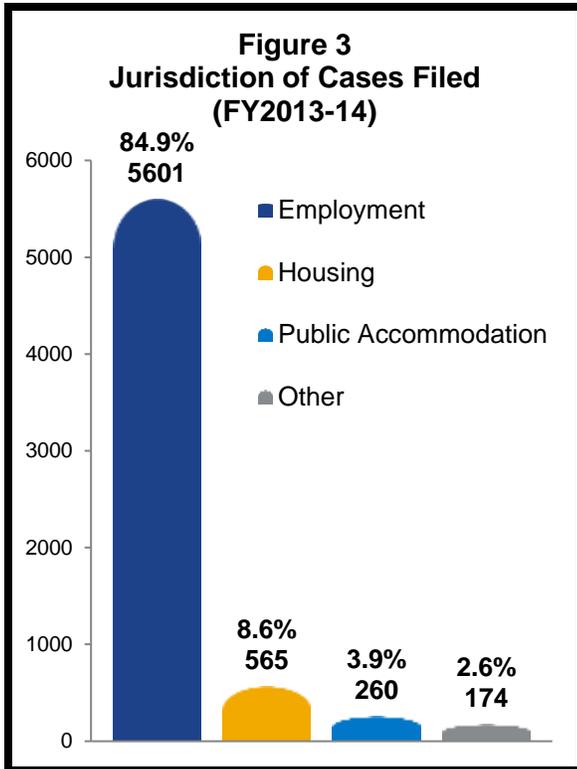
There were 6,600 complaints filed with the Division in FY2013-14. During this same period, the Division resolved 6,983 complaints (see Figure 1).

The median processing time for complaints for FY2013-14 was 176 days (see Figure 2).



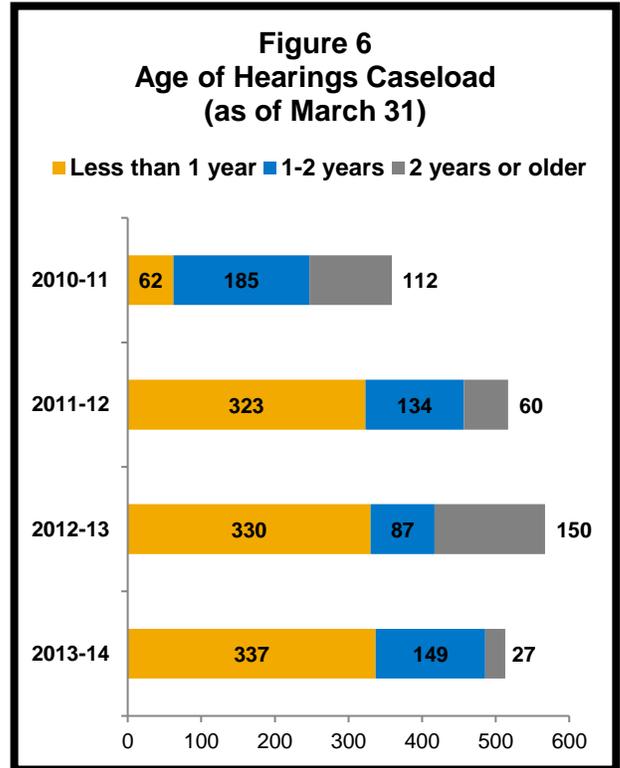
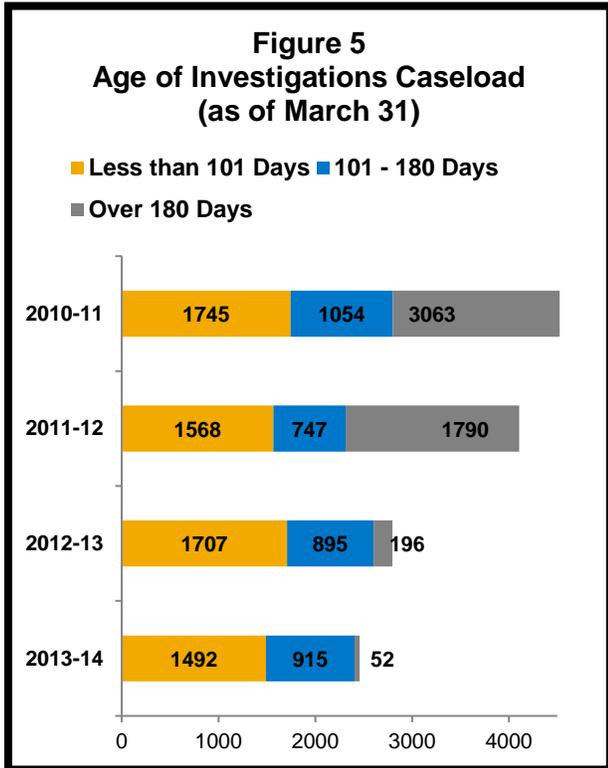
In FY2013-14, the majority of complaints filed were in the area of Employment (approximately 84.9%), followed by Housing (approximately 8.6%) and Public Accommodation (approximately 3.9%), with the sum of all other areas comprising approximately 2.6% of all cases filed (see Figure 3).

The most frequently cited basis of complaints filed in FY2013-14 was Race/Color (36.1%), followed by Disability (31.8%), and Opposed Discrimination/Retaliation (30.0%). It is important to note that some complaints allege more than one basis; therefore, the total percentage of bases cited will be more than 100% (see Figure 4).



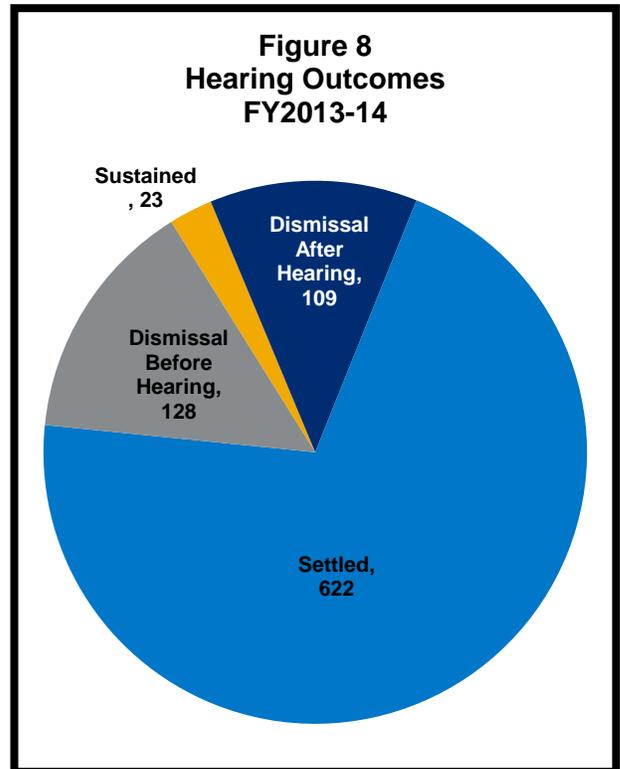
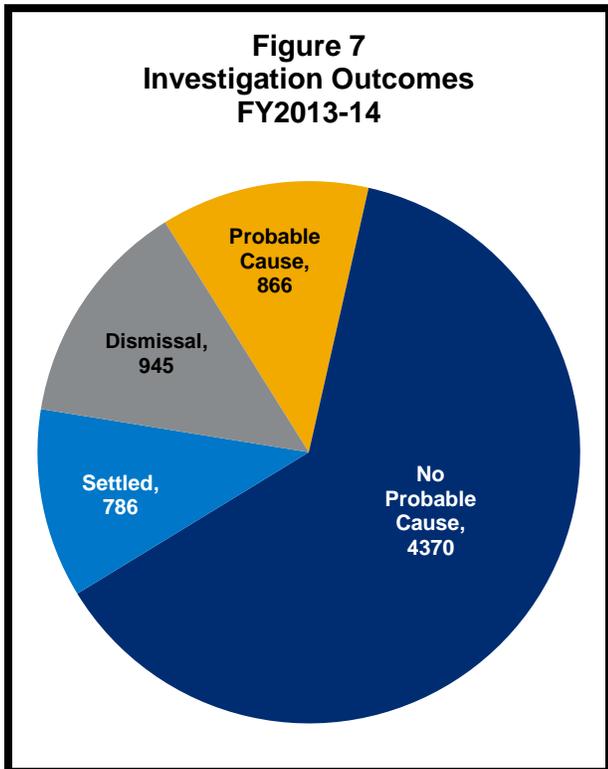
As of the end of FY2013-14, 1,492 cases under investigation were less than 101 days old, 915 were between 101 days and 180 days old, and 52 were over 180 days old (see Figure 5).

Of the cases in the Hearing Process that received investigative determinations of Probable Cause, 337 were less than one year old, 149 were between one and two years old, and 27 were two years old or older at the end of FY2013-14 (see Figure 6).



During FY2013-14, the Division issued 6,967 investigative determinations (see Figure 7). Of these, 4,370 were No Probable Cause, 945 were Dismissals and 786 were settlements; 866 were Probable Cause determinations, which resulted in those cases advancing to the Hearing Process.

In FY2013-14, the Commissioner issued 882 Commissioner's Orders (see Figure 8). Of these, 622 were settlements, 128 were dismissals prior to the completion of the Hearing Process, 109 were dismissed after Hearing, while 23 were sustained after Hearing.



Division-Initiated Investigations

The following Division-Initiated Investigations were resolved in FY2013-14 or are ongoing:

Housing Discrimination on Long Island: The Division completed an investigation into its complaint against the Town of Oyster Bay and several developers, which alleges that the Town's Next Generation and Golden Age housing program's residency preferences (for residents and children of residents of Oyster Bay and its school districts, who are overwhelmingly white) discriminate on the basis of race and national origin, perpetuate residential segregation by preventing people of color from having any real opportunity to obtain such affordable housing and lock in the present racial composition of the Town. The Division determined the complaint to have probable cause.

Banking Industry: The Division investigated several major banks that were not providing online services to people with visual impairments. Additionally, the investigation showed that the banks were denying goods and services to visually impaired persons because their customer service representatives were not properly trained. As a result, representatives were informing such persons that their online banking services are not available to individuals with visual impairments. The investigation is ongoing.

Arrest and Conviction: The Division began an investigation into the discriminatory failure to hire persons with criminal records within the security guard industry.

Outreach and Education

During FY2013-14, the External Relations unit developed and executed events and a public information campaign to educate the public about their rights under the Human Rights Law.

Laying a Foundation Today for a Better Tomorrow: The Division held a Fair Housing Conference in New York City at the offices of the U.S. Department of Housing and Urban Development (HUD). The conference featured a panel discussion on fair housing trends and issues. In addition, a training program was conducted on accessible design and construction requirements for new housing construction under the Federal Fair Housing Act. Architects registered with the American Institute of Architects received professional credit.

The Division held a second Fair Housing Conference in Buffalo, at the Buffalo Niagara Convention Center. The event served as the launch for the Division's upstate fair housing campaign. A training program was conducted on accessible design and construction requirements for persons with disabilities for new housing construction. The program included professional credit for architects. There were also panel presentations on reasonable accommodations for persons with disabilities and the state of fair housing in the Buffalo region.

Fair Housing Campaign: In April 2013, the Division launched a public education campaign with funding from HUD. The advertisements ran in newspapers, websites serving the downstate region, and on mass transit buses in Upstate New York.

Commissioner's Orders

The following is a sampling of cases adjudicated in administrative hearings during FY2013-14. All Commissioner's Orders after Hearing can be found on the Division's website at www.dhr.ny.gov/orders.

Retaliation

10144564, Lora Abbott Seabury v. Rensselaer County, Sheriff's Department; William Fenton as Aider and Abettor

The complainant, a corrections officer at the County Jail, was subjected to a hostile work environment after reporting sexual harassment. The Division awarded the complainant \$107,558.51 in back pay, \$208,837.02 in future lost earnings, and \$300,000 as compensatory damages for mental anguish. The respondent was ordered to pay \$35,000 in civil fines and penalty to the State of New York for violating the Human Rights Law.

Age, Disability

10150646, Lillie Davis Staton v. Jacobs RE LLC; Jonathan Jacobs, Individually

The complainant was harassed and discriminated against by her landlord based on her age and disability. The Division awarded the complainant \$10,000 in compensatory damages for mental pain and \$10,000 in punitive damages. The respondent was ordered to pay \$55,000 in civil fines and penalty to the State of New York for violating the Human Rights Law.

Race

10152706, Wilbert Jones v. Refrigerated Transportation Solutions, LLC d/b/a Refrigerated Transportation Solutions; Alex Logvinsky

The complainant, a driver for a commercial trucking business, was subjected to a racially hostile work environment and terminated because of his race. The Division awarded the complainant \$37,798 in economic losses and \$20,000 for pain and suffering. The respondent was ordered to pay \$55,000 in civil fines and penalty to the State of New York for violating the Human Rights Law.

Notable Court Decisions in which the Division was a Party

Sexual Harassment

10127569, Natalie J. Thibeault v. West Taghkanic Diner II, Inc.; L'houssine Siba

10127568, Jamie L. Colgrove v. West Taghkanic Diner II, Inc.; L'houssine Siba

105 A.D.3d 1106, 962 N.Y.S.2d 748 (3d Dept. 2013)

The Appellate Division concluded that the Division's determination was supported by substantial evidence. The employer sexually harassed the complainants by speaking about what he would do to them if he was not married and describing his past cheating on his wife; there were also several instances of offensive touching. The retaliation claim was supported by evidence showing the complainants were fired one week after complaining, and the reasons given for firing them were found not credible. Awards of \$20,000 each were supported by evidence of financial hardship, stress, and humiliation suffered by the complainants. The back-pay awards were also proper, and the owner was individually liable as an employer, along with his corporation.

New York State Commission Against Discrimination

1945 Henry C. Turner, Chairman
Charles Garside, Chairman
Edward W. Edwards, Chairman
Ward Arbury, Chairman

1955 Charles Abrams, Chairman

1959 Elmer A. Carter, Chairman

1961 Ogden Reid, Chairman

New York State Commission for Human Rights

1962 George Fowler, Chairman

1967 Robert J. Mangum, Chairman

New York State Division of Human Rights

1970 Jack M. Sable, Commissioner

1975 Werner Kramarsky, Commissioner

1982 Robert Shaw, Acting Commissioner

1983 H. Carl McCall, Commissioner

1984 Douglas H. White, Commissioner

1990 Margarita Rosa, Commissioner

1995 Edward Mercado, Commissioner

1999 Jerome H. Blue, Commissioner

2000 Evonne W. Jennings Tolbert, Commissioner

2003 Michelle Cheney Donaldson, Commissioner

2007 Kumiki Gibson, Commissioner

2008 Galen D. Kirkland, Commissioner

2013 Helen Diane Foster, Commissioner

General Counsels

1945 Henry Spitz

1975 Beverly Gross

1977 Ann Thatcher Anderson

1983 Roberto Albertorio

1985 Margarita Rosa

1988 Lawrence Kunin

1999 Gina M. Lopez

2007 Caroline Downey