

ALERTS**Labor & Employment Law Alert - The EEOC Settles Its First Lawsuit Alleging Genetic Information Discrimination**

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The Equal Employment Opportunity Commission (EEOC) recently settled its first lawsuit alleging violations of the Genetic Information Non-Discrimination Act (GINA). GINA makes it illegal to discriminate against employees or applicants because of genetic information, which includes family medical history. GINA also restricts employers from requesting, requiring, or purchasing such information.

According to the EEOC's judicial complaint, Rhonda Jones worked as a temporary employee for Fabricut, a distributor of decorative fabrics. At the conclusion of her temporary assignment, Ms. Jones applied for a permanent position with the company. Fabricut made Ms. Jones an offer of permanent employment and sent her to the company's contract medical examiner for a pre-employment drug test and physical.

As part of her physical examination, Ms. Jones was required to fill out a questionnaire and disclose the existence of various disorders in her family medical history, including: heart disease, hypertension, cancer, tuberculosis, diabetes, arthritis and "mental disorders." Ms. Jones then underwent a series of medical tests, which resulted in the examiner concluding that she suffered from carpal tunnel syndrome. Fabricut ultimately rescinded Ms. Jones' offer based upon its medical examiner's conclusions.

According to the EEOC, Fabricut ran afoul of GINA when it required Ms. Jones to disclose the existence of various disorders in her family medical history. The Agency also alleged Fabricut's conduct violated the Americans with Disabilities Act (ADA) when it discriminated against her based upon a perceived disability.

The EEOC's lawsuit underscores the importance of working with outside counsel in order to ensure post-offer medical examinations do not inadvertently violate the law. Indeed, even the most well-intentioned employer can find itself embroiled in costly litigation for a mistake that could easily have been avoided.

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