

EEOC Files Two Genetic Information Nondiscrimination Act Lawsuits In Two Weeks

June 3, 2013 | [EEOC, Employment Discrimination, Currents - Employment Law](#)

The EEOC recently filed its first-ever lawsuit alleging a violation of the Genetic Information Nondiscrimination Act (GINA) – and subsequently filed its second GINA lawsuit one week later.

The [first](#) lawsuit settled, with a fabrics distributor paying \$50,000 and agreeing to take other specified actions (i.e. posting an anti-discrimination notice, among other things) after the EEOC alleged a violation of GINA and the Americans with Disabilities Act (ADA). Specifically, with respect to GINA, the EEOC charged that the distributor violated the Act when it asked the woman for her family medical history in a post-offer medical examination, including questions relating to the existence of heart disease, hypertension, cancer, tuberculosis, diabetes, arthritis, and “mental disorders” in her family.

The [second](#) lawsuit remains pending and was filed against a nursing and rehabilitation center. The EEOC similarly charged that the center violated GINA when it requested family medical history in a post-offer, pre-employment medical examination. The second lawsuit also alleges violations of the ADA and Title VII of the Civil Rights Act.

According to the EEOC, GINA “makes it illegal to discriminate against employees or applicants because of genetic information, which includes family medical history; and also restricts employers from requesting, requiring or purchasing such information.”

As noted in both press releases, one of the six national priorities identified by the EEOC’s Strategic Enforcement Plan is for the agency to address emerging and developing issues in equal employment law, which includes genetic discrimination. As this recent EEOC action signals a focus on GINA issues, employers are encouraged to ensure their policies related to employee medical information and examination comply with the Act.

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