

EEOC: Drug Testing Policies Must Allow For Reasonable Accommodation

August 31, 2016 | [EEOC, Labor And Employment](#)



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The Equal Employment Opportunity Commission (EEOC) recently filed suit against a car dealership alleging that its drug testing policy did not contain exceptions for qualified persons with disabilities. The lawsuit, *EEOC v. Bell Leasing, Inc.*, Civil Action No. 2:16-cv-02848, was filed on August 25, in the U.S. District Court for the District of Arizona. The EEOC alleges the employer made a job offer to an applicant contingent upon a successful drug test. When the applicant tested positive for a prohibited substance, the employer rescinded the offer. The EEOC alleges that the positive test was the result of the applicant's use of a prescription drug in accordance with her doctor's orders, but the employer refused to consider her medical evidence. The EEOC's complaint seeks monetary and punitive damages, injunctive relief, and Americans with Disabilities Act (ADA) training. In the EEOC's [press release](#), it emphasized that even when employers are legally permitted to conduct drug tests, they must accommodate qualified persons with disabilities. If the failed test resulted from the legal use of a prescription drug and the drug will not prevent the employee from performing the essential functions of the job, the employer will likely need to accommodate the employee's drug use. While it is much too early to tell who will prevail here, the lawsuit serves as an indicator of the issues that the EEOC considers important when analyzing employer's drug testing policies.

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