

ALERTS

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

May 13, 2013 | [Atlanta](#) | [Chicago](#) | [Columbus](#) | [Delaware](#) | [Elkhart](#) | [Fort Wayne](#) | [Grand Rapids](#) | [Indianapolis](#) | [Los Angeles](#) | [Minneapolis](#) | [South Bend](#)

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 Fabricut ultimately rescinded Ms.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.

To obtain more information, please contact the Barnes & Thornburg Labor and Employment attorney with whom you work, or a leader of the firm's Labor and Employment Law Department in the following offices:

Kenneth J. Yerkes, Chair (317) 231-7513; John T.L. Koenig, Atlanta (404) 264-4018; Norma W. Zeitler, Chicago (312) 214-8312; William A. Nolan, Columbus (614) 628-1401; Eric H.J. Stahlhut, Elkhart (574) 296-2524; Mark S. Kittaka, Fort Wayne (260) 425-4616; Michael A. Snapper, Grand Rapids (616) 742-3947; Peter A. Morse, Indianapolis (317) 231-7794; Scott J. Witlin, Los Angeles (310) 284-3777; Tina Syring Petrocchi,

RELATED PEOPLE



Kenneth J. Yerkes

Partner
Indianapolis

P 317-231-7513
F 317-231-7433
ken.yerkes@btlaw.com



John T.L. Koenig

Partner
Atlanta

P 404-264-4018
F 404-264-4033
john.koenig@btlaw.com



Norma W. Zeitler

Partner
Chicago

P 312-214-8312
F 312-759-5646
norma.zeitler@btlaw.com



William A. Nolan

Partner
Columbus

P 614-628-1401
F 614-628-1433
bill.nolan@btlaw.com

Minneapolis (612) 367-8705; Janilyn Brouwer Daub, South Bend (574) 237-1139; Teresa L. Jakubowski, Washington, D.C. (202) 371-6366.

© 2013 Barnes & Thornburg LLP. All Rights Reserved. This page, and all information on it, is proprietary and the property of Barnes & Thornburg LLP. It may not be reproduced, in any form, without the express written consent of Barnes & Thornburg LLP.

This Barnes & Thornburg LLP publication should not be construed as legal advice or legal opinion on any specific facts or circumstances. The contents are intended for general informational purposes only, and you are urged to consult your own lawyer on any specific legal questions you may have concerning your situation.



Mark S. Kittaka

Partner

Fort Wayne, Columbus

P 260-425-4616

F 260-424-8316

mark.kittaka@btlaw.com



Michael A. Snapper

Of Counsel (Retired)

P 616-742-3947

mike.snapper@btlaw.com



Peter A. Morse, Jr.

Partner

Indianapolis, Washington, D.C.

P 317-231-7794

F 317-231-7433

pete.morse@btlaw.com



Scott J. Witlin

Partner

Los Angeles

P 310-284-3777

F 310-284-3894

scott.witlin@btlaw.com



Janilyn Brouwer Daub

Partner

South Bend, Elkhart

P 574-237-1139

F 574-237-1125

janilyn.daub@btlaw.com



Teresa L. Jakubowski

Partner

Washington, D.C.

P 202-371-6366

F 202-289-1330

teresa.jakubowski@btlaw.com

RELATED PRACTICE AREAS

Labor and Employment