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EEOC Has Settled its First Lawsuit Filed Alleging Genetic Discrimination

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On May 7, 2013, the Equal Employment Opportunity Commission (EEOC) announced that it has settled its first lawsuit filed alleging that an employer violated the Genetic Information Nondiscrimination Act (GINA).

GINA makes it illegal to discriminate against employees or applicants because of genetic information, which includes family medical history. It also restricts employers from requesting, requiring or purchasing such information. GINA was signed into law in 2008, and took effect the following year.

In its lawsuit, the EEOC alleged that Fabricut, Inc., a large fabrics distributor located in Tulsa, Oklahoma, violated GINA when it asked for Rhonda Jones' family medical history in its post-offer medical examination. According to the EEOC's suit, Ms. Jones worked for Fabricut in a temporary position as a memo clerk. Before her temporary assignment ended, Ms. Jones applied for a permanent position. Fabricut offered Ms. Jones a permanent position, and sent her to its contract medical examiner for a pre-employment drug test and physical. When Ms. Jones reported for her physical, she was required to fill out a questionnaire and disclose the existence of numerous disorders in her family medical history. Ms. Jones was then subjected to medical testing, from which the examiner concluded that further evaluation was needed to determine whether Jones suffered from carpal tunnel syndrome.

Employers should be aware the GINA prohibits employers from discriminating against employees or applicants because of their genetic information, which includes family medical history, and that violations of GINA are being taken seriously by the EEOC.