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**EMPLOYER ALERT**

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**DISCRIMINATION CLAIMS ON THE RISE**

The Equal Employment Opportunity Commission (EEOC) has reported that for its 2009 fiscal year, 93,277 discrimination charges were filed, making the number of filings the second highest ever.

The most frequently filed charges with the EEOC were race discrimination and retaliation charges (36%), followed by sex-discrimination charges. Age discrimination charges are also on the rise and reached the second highest level ever. Of course, some complaints contain several different types of charges.

Although there is no way to totally prevent the filing of discrimination charges, employers can lower the risk of a discrimination claim by staying familiar with the laws and by good record keeping.

**PREGNANCY LEAVE (A CASE TO WATCH)**

Many employers have a policy that employees are not entitled to a leave of absence (paid or otherwise) until they are employed for a certain period of time. The employer in the case of *Nursing Care Management of America, Inc. v. Ohio Civil Rights Commission* had a written leave policy permitting 12 weeks of leave for employees with at least one year of service.

One of its employees, a licensed practical nurse, presented the employer with a physician's note stating that she was medically unable to work as a result of swelling related to her pregnancy. At that time, however, she had been employed for only eight months. She left work because of her medical condition, and nine days thereafter the employer terminated her employment on the basis that she was not qualified for the leave of absence because she had not worked at least one year.

The nurse filed a charge with the Ohio Civil Rights Commission, and the Commission found that there was probable cause that the employer had engaged in pregnancy discrimination. However, the hearing officer issued a recommendation against the employee, but the Ohio Civil Rights Commission rejected the hearing officer's recommendation and the employer appealed to the Licking County Common Pleas Court and obtained a favorable ruling. The nurse appealed to the Court of Appeals for the Fifth Appellate District. The Court of Appeals reversed the trial court and held in favor of the nurse. The case is now on appeal to the Supreme Court of Ohio.

Dennis L. Pergram (dpergram@mmpdlaw.com)

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