

Employer Alert

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GINA IS NOT SOMEONE’S WIFE, GIRLFRIEND, OR A MOVIE STAR

GINA is the acronym for Title II of the Genetic Information Nondiscrimination Act, which applies to employers with 15 or more employees.

Effective January 10, 2011, the Equal Employment Opportunity Commission (“EEOC”) has issued final rules to implement GINA. GINA prohibits the use of genetic information in employment, restricts employers from requesting, requiring, or purchasing genetic information, and strictly limits the disclosure of genetic information.

Due to the fact that employers do have a right to lawfully request certain health-related information, such as information concerning the need for a reasonable accommodation under the Americans with Disabilities Act, the EEOC suggests that employers warn employees, health care providers, and others not to provide any genetic information when responding to a request for medical information. The EEOC’s final rule suggests the following language:

The Genetic Information Nondiscrimination Act (GINA) prohibits employers and other entities covered by GINA Title II from requesting or requiring genetic information of an individual or family member of the individual, except as specifically allowed by this law. To comply with this law, we are asking that you not provide any genetic information when responding to this request for medical information. “Genetic information,” as defined by GINA, includes an individual’s family medical history, the results of an individual’s or family members’ genetic tests, the fact that an individual or an individual’s family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual’s family member or an embryo lawfully held by an individual or family member receiving assistive reproductive services.

The EEOC reports that it received 201 charges under GINA during its first year of enforcement. It would not be surprising to see that number increase as employees become more aware of GINA.

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EEOC REPORTS A RECORD NUMBER OF EEOC CHARGES

The EEOC recently reported a record number of filings for the fiscal year that ended September 30, 2010. It reported that there were 99,922 discrimination charges filed with respect to private sector employment.

Retaliation charges lead for the first time ever. A retaliation charge is one filed by an employee who claims that he/she was retaliated against for having previously made a discrimination complaint.

The EEOC also reports that it filed 250 lawsuits, resolved 285 lawsuits, and resolved 104,999 private sector charges. Further, the EEOC reports that it obtained more than \$404 million in monetary benefits from employers through enforcement, mediation, and litigation.

It is always important for employers to be conscious of all the discrimination laws and to have the proper policies in effect and make a sincere effort toward workplace discrimination prevention.

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NOTICE

This Alert provides general information and is not legal advice. Please contact us if you need legal advice.

We appreciate your consideration of this law firm. If you would like further information regarding any of the items discussed in this Employer Alert, or if we can assist you in any other way, please contact our office at 740-363-1313.

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