

# H.R. ALERT\*

NOVEMBER 2003

In this month's *H.R. Alert*, we examine the goings on at the United States Equal Employment Opportunity Commission (EEOC). As many of you know, the EEOC operates through 50 field offices nationwide and is responsible for coordinating all federal equal employment opportunity regulations, practices, and policies. The EEOC interprets employment discrimination laws, monitors the federal sector employment discrimination program, provides funding and support to state and local Fair Employment Practices Agencies, and sponsors outreach and technical assistance programs.

In recent years, the EEOC has taken a more active role in enforcing federal employment laws. Through its litigation program, overseen by the Office of General Counsel, the EEOC files lawsuits addressing discrimination on behalf of individuals in various occupations. In 2001, the EEOC filed 431 lawsuits, and obtained over \$50 million in monetary relief from employers.

## EEOC ENFORCES NATIONAL ORIGIN DISCRIMINATION POST 9/11

In the wake of the terrorist attacks of 9/11, the EEOC saw a significant increase in discrimination charges brought on the basis of national origin. This fall, the EEOC announced that it had filed two suits related to this type of discrimination. The first was against the Plaza Hotel and Fairmont Hotel and Resorts for discrimination related to the events of September 11, 2001 against a class of Muslim, Arab, and South Asian employees based on their religion and/or national origin. In the lawsuit, the EEOC charges that after September 11, 2001, Muslim, Arab and South Asian employees were subjected to offensive comments about their religion and/or national origin, including being called "terrorist," "Osama," "Al Queda," "Taliban," and "Dumb Muslim" and being cursed at and accused of destroying the World Trade Center and the country.

In the second suit, the EEOC filed an action against Applied Graphics Technologies, Inc. a New York digital media service company, and Newsweek, Inc., an international publisher based in New York, alleging

discrimination against an employee of Middle Eastern-Lebanese national origin following the terrorist attacks of September 11, 2001. The lawsuit alleges that an eight-year employee was terminated because of his national origin in the aftermath of 9/11 shortly after he disclosed that his grandfather was Lebanese and Muslim.

*Employer Practice Tip:* National origin discrimination means treating someone less favorably because he or she comes from a particular place, because of his or her ethnicity or accent, or because it is believed that he or she has a particular ethnic background. National origin discrimination also means treating someone less favorably at work because of marriage or other association with someone of a particular nationality. In December, 2002, the EEOC issued a new Compliance Manual section on national origin discrimination. It can be accessed on the Internet at this url: <http://www.eeoc.gov/origin/index.html>

## NEW ADA FACT SHEET

On October 7, 2003, the EEOC released a new fact sheet designed to educate job applicants on how Title I of the Americans with Disabilities Act (ADA) protects their rights throughout the hiring process. The fact sheet covers employer obligations such as the provision of “reasonable accommodation” for applicants with disabilities who need assistance during the hiring process. Accommodations may include providing or modifying equipment, providing written materials in an accessible format (for example, braille), providing sign language interpreters, and ensuring that interviews are held in accessible locations. Applicants who require reasonable

accommodations from prospective employers must request them and be prepared to explain why accommodation is needed.

The new publication also explains the ADA’s rules on when employers may seek medical information from applicants. Before making a job offer, an employer cannot require a medical examination or ask questions that are likely to reveal that an applicant has a disability. The fact sheet reviews the types of questions that are prohibited during interviews and on applications, and discusses what questions an employer may ask of applicants with obvious disabilities, such as deafness or loss of a limb.

*Employer Practice Tip:* We routinely receive questions from our clients about the ADA as this is one of the most complicated and misunderstood areas of employment law. The EEOC’s fact sheet addresses some of the most common questions employers have about the ADA and the hiring process. It can be accessed on the Internet at this url: <http://www.eeoc.gov/facts/jobapplicant.html>

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#### H.R. ALERT

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### MARK YOUR CALENDARS

New Orleans Employment Law Seminar  
“Being a Prudent Employer in the 21st Century: Managing the Risks at Each Stage of the Employment Process”

Thursday, November 13, 2003  
Wyndham Canal Place

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