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**New Federal Antidiscrimination
Law Passed**

*Jeffrey M.
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On Wednesday, May 21, 2008 President Bush signed into law the Genetic Information Nondiscrimination Act. It is important that every business understand what this new Act means and the specific protection it affords to employees to ensure compliance with the new law.

The Act makes it unlawful for an employer to discriminate against any individual based on genetic information, such as a predisposition to cancer, heart disease or other genetically linked ailment. The new law also prohibits health insurance companies from using genetic data to set premiums or determine enrollment eligibility.

It is hoped that the new law will encourage individuals to seek out genetic testing when advised by physicians to do so without fearing that they will lose their jobs or insurance if the results suggest a genetic vulnerability.

Prohibited acts by employers include: failing to hire, discharging an employee or otherwise discriminating against an employee with respect to terms and conditions of employment based on an individual's predisposition to illnesses.

The Act also forbids an employer from requesting, requiring or purchasing genetic information of the individual or family member, except in certain limited circumstances such as compliance with the certification requirements of the Family and Medical Leave Act.

If an employer lawfully possesses genetic information about an employee, such information must be maintained on separate forms and in separate medical files and be treated as a confidential medical record of the employee or member.

Damages for violating the employment provisions include back pay, compensatory and punitive damages, as well as attorneys' fees.

The House voted 414-1 for the new legislation. The Senate passed it in a 95-0 vote. The Act becomes effective in November 2009.

For information about this or any other employment law-related matter, please contact Jeffrey M. Schlossberg, Chair of the Employment Law Practice Group at (516) 663-6554 or jschlossberg@rmfpc.com.

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