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## **Much Ado About Nothing?**

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On March 25, 2011, final regulations for the Americans with Disabilities Act Amendments Act (ADAAA) were issued. As was expected, the new regulations reflect an expansion of employee protections under the ADAAA. However, for employers who are doing business solely within California, all the hype surrounding this new guidance may be much ado about nothing.

Why so? Because, in California, employers are obligated to comply with whichever law (either federal or state) that is most favorable to the employee. Simply put, the expanded ADAAA protections are not as rigorous as those protections already afforded to California employees under the state's Fair Employment and Housing Act (FEHA). As a result, employers who are already complying with the more stringent FEHA obligations should feel little or no impact from the new ADAAA regulations.

For example, under the new regulations, the ADAAA definition of a "disability" has been broadened. Even so, this broader definition is still not as expansive as that under FEHA, where disabilities also include "medical conditions." Likewise, the ADAAA expands the notion of what it means to be "substantially limited in a major life activity." However, this definition is still not as broad as coverage under the FEHA, which is triggered where a person is simply "limited" in a major life activity. Other changes include the requirement that a disability under the ADAAA be considered in its unmitigated state. This again is already required under the FEHA.

Finally, while the new regulations may be a guide to "Been There, Done That" for California employers, those who do business outside of the state should take time to familiarize themselves with these changes and to adjust policies and practices in order to comply with the new obligations. If you have questions or concerns about the new ADAAA regulations, or about any other matter related to disability discrimination, please contact our offices at (661) 395-1000.

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