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***Your Employment Law Bulletin from***  
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**KRUCHKO &  
FRIES**

**July 23, 2012**

**EEOC Aggressively Enforcing Disability Act**

The EEOC received a record 99,947 charges of discrimination during fiscal year 2011. Over 25,000 of the charges involved disability discrimination. The charges usually involve an allegation that the employer failed to provide reasonable accommodation to a disabled employee rather than whether an illness or impairment is actually a covered disability. The agency has been very aggressive in requiring employers to explore all possible avenues of accommodation for disabled employees.

For example, a Maryland-based farm and nursery recently settled a suit brought by the EEOC over the company's alleged failure to provide accommodation to an employee suffering from hemophilia. The employee worked as a stocker and the company was concerned that the employee could not safely perform the duties of his position. The company refused to let the employee return to work until his doctor signed a letter stating that the employee could perform duties such as handling sharp objects in a fast and effective manner. When the doctor refused to sign the letter, the nursery fired the employee.

The EEOC alleged that the disabled employee's job did not require him to handle sharp objects and, in any case, he wore protective equipment to perform his stocking duties. The agency claimed the nursery did not make an effort to accommodate the employee's disability and, instead, had "jump[ed] to conclusions" based on "stereotypes and unfounded beliefs." The EEOC said that employers are required to have conversations with disabled employees about "what [their] needs are and whether the needs can be met."

The nursery signed a consent decree which included a \$50,000 settlement to the discharged employee and a provision requiring the company to consult with an expert in reasonable accommodation to make its workplace accessible for disabled employees. The company will also provide anti-discrimination training to its supervisors and establish an "effective complaint process" for employee complaints of discrimination. Finally, the employer was required to post a notice to its employees notifying them of its agreement with the EEOC.

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***Speakers***

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