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Stowe Associates Insurance and Compliance Tips Newsletter



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During the economic downturn and resulting budget cuts, many employers are having difficulty funding all of their Risk Management and Human Resources functions and services. In this era of ever increasing employer liability it is more important than ever to comply with government regulations. Stowe Associates offers many complimentary compliance assistance services.

For more information or to request a no obligation demonstration contact your Stowe Associates representative or Alison Smith at asmith@stoweassociates.com or 770-451-6222.

O. Hawbaker Will Pay \$200,000 to Settle EEOC Disability Discrimination Lawsuit

Construction Company Refused to Hire Equipment Operator With Diabetes, Federal Agency Charged

A large Pennsylvania construction company which operates 17 quarries and eight asphalt production facilities across Pennsylvania and southern New York will pay \$200,000 and provide significant remedial relief to settle a federal disability discrimination lawsuit, the U.S. Equal Employment Opportunity Commission (EEOC) announced recently.

According to the EEOC's lawsuit, Glenn O. Hawbaker, Inc., made a conditional offer of employment as an equipment operator to Christopher Woomer at its facility in State College, Pa. Woomer, of Tyrone, Pa., worked for several years as a backhoe operator and demonstrated his ability to operate the backhoe during the job interview. When Woomer went for a post-offer company physical, the company learned he has insulin-dependent diabetes. The EEOC charged that Hawbaker unlawfully rescinded the job offer once it learned about Woomer's diabetes.

It is a violation of the Americans With Disabilities Act (ADA) to refuse to hire a qualified individual based on his disability or perception thereof. The EEOC filed suit in after first attempting to reach a voluntary settlement out of court through its conciliation process.

In addition to the \$200,000 in monetary relief to Woomer, the four-year consent decree resolving the lawsuit enjoins Hawbaker from engaging in further disability discrimination or retaliation for complaining about it. The company is required to modify its post-offer medical examination policies to engage in an interactive process with applicants and their doctors to assess fitness for duty, provide reasonable accommodations to qualified individuals with disabilities and ensure that individuals with insulin-dependent diabetes are not automatically excluded from employment as equipment operators. All employees in Hawbaker's human resources department and all employees with job duties related to hiring, the reasonable-accommodation process, post-offer and employee medical examinations and medical leave policies will be required to attend at least one day of mandatory training on ADA. Hawbaker must also report to

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the EEOC about the company's response to any complaints of alleged disability-based discrimination in hiring and post a remedial notice.

AT&T to Pay \$60,000 to Settle EEOC Disability Discrimination Suit

AT&T Services, Inc. (AT&T), a major telephone company, will pay a former employee \$60,000 to settle a disability discrimination lawsuit brought by the U.S. Equal Employment Opportunity Commission (EEOC).

The EEOC's lawsuit charged that AT&T violated the Americans With Disabilities Act (ADA) by failing to hire an applicant as a cable splicer technician in Austin only because of his "insulin use" for type 2 diabetes. The applicant indisputably had the necessary experience and expertise to perform the job, the EEOC said, and had previously safely performed a similar job for AT&T for many years after he was diagnosed with diabetes.

Refusing to hire a qualified individual because of his or her disability, record of disability, or because the employer perceives a person as being disabled, violates the ADA. The EEOC filed suit after the EEOC's San Antonio Field Office determined that AT&T had violated the ADA and after it tried to reach a pre-litigation settlement through the Commission's conciliation process.

As part of the agreed consent decree resolving the suit, AT&T will pay \$60,000 to its former employee. AT&T also agreed to comply with the provisions of the ADA and to provide training regarding the ADA to all staffing managers at AT&T's non-management staffing office located in San Antonio. AT&T further agreed to have these staffing managers review AT&T's equal employment opportunity policies which prohibit discrimination on the basis of disability and to acknowledge, in writing, that insulin treatment for diabetes, in and of itself, does not automatically disqualify an individual from employment.

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