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Voluntary Disclosure of Medical Information does not Create Employer Liability Under the ADA

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A truck driver voluntarily informed his company's human resources manager that he was HIV-positive. Several months later, the driver decided to become a driver-trainer for the company. The company's HR manager expressed some concerns regarding the driver's ability to work as a trainer because of his HIV-positive status. The company and the driver discussed the matter, and ultimately decided that the driver's HIV status would be disclosed to those he trained via an acknowledgement form informing trainees that the driver suffered from HIV. Ultimately, the relationship between the driver and the company deteriorated significantly, and the driver's contract was terminated. The EEOC filed suit against the company on the driver's behalf, raising a number of claims. Included among these was a violation of Section 102(d) of the Americans with Disabilities Act ("ADA"), which governs medical examinations and inquiries. Ultimately, the Tenth Circuit held that Section 102(d) only prohibits the disclosure of confidential information obtained through an authorized medical examination. It does not, the court held, protect information that is voluntarily disclosed by an employee outside of an authorized employment-related medical exam or inquiry. This opinion recognizes an important limitation on Section 102(d), which could otherwise rapidly devolve into a strict-liability provision that creates liability for any disclosure. Such a result would negatively impact the ability of employers and employees to develop creative solutions to difficult situations, like the one presented here. Nevertheless, employers must tread with extreme caution whenever disclosing confidential employee information, as doing so could lead to litigation not only under the ADA, but under state tort laws as well.

EEOC v. C.R. England, Inc., Nos. 09-4207, 09-4217 (10th Cir., May 3, 2011)

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Topics

ADA, Tenth Circuit Court Of Appeals, HIV, HR