

New rules on disabled workers mean significant changes for workplaces, Birmingham lawyer says

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By **Roy L. Williams -- The Birmingham News**

BIRMINGHAM, Alabama -- Companies across the nation are scrambling to understand ramifications of new federal rules designed to stamp out discrimination against disabled workers, lawyers said Wednesday at a breakfast seminar sponsored by Bradley Arant Boult Cummings in Birmingham.

"These are the most significant changes since **the ADA (Americans with Disabilities Act)** was passed in 1990," said Ann Yuengert, a partner in Bradley Arant's Birmingham office who conducted the seminar along with Nashville partner Matt Lonergan.

Both said they and other labor lawyers at the firm have been flooded with inquiries from businesses since the Equal Employment Opportunity Commission, which enforces workplace laws, put the changes into effect on May 24.

The new rules have significantly broadened who can be considered disabled under ADA. Under the changes, a company could be sued if it fires an employee whose high blood pressure medication causes him to need frequent bathroom breaks, Lonergan said.

Employers must now consider placing him or her in another job that allows the employee to perform duties or make reasonable accommodations such as giving the worker more breaks. The new ADA also has stronger protections for workers fired after exhausting medical leave after being injured on the job.

The EEOC rules are the result of changes to ADA passed by Congress in January 2009, Lonergan said.

"There was a dramatic shift. Courts had been narrowing the scope, but Congress have now broadened the definition of who can be considered disabled," he said.

In the past, many disability claims by workers who didn't have noticeable disabilities such as vision impairment, wheelchairs or artificial limbs were thrown out, Yuengert said.

"Now under the new law, more workers will qualify as disabled so employers will have to consider whether they must make reasonable accommodations or run the risks of a lawsuit," she said. "The costs to employers will go up because companies will be forced to spend more time ensuring they are in compliance."

Lonergan said the new changes already have caused an uptick in EEOC claims for disability discrimination. Since Congress passed the law in January 2009, EEOC disability charges are up 17 percent.

"We expect to see another increase in litigation now that the EEOC rules are in effect," he said.

Eddie Roberson, director of human resources at Walter Energy, which has a 300-employee plant in North Birmingham, said the seminar was very insightful. He attended with two of his human resources employees.

"As they spoke, we kept jotting down different situations in which the new law would apply to issues we've seen at the plant," Roberson said.

Join the conversation by clicking to comment or email Williams at rwilliams@bhamnews.com.

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