



HR CORNER

FEES & BURGESS, P.C.



Volume 7, Issue 1

January 2011

EEOC Finalizes ADAAA Regulations

FEES AND BURGESS, P.C.,
Emphasizes:

After publishing proposed regulations in September 2009, the Equal Employment Opportunity Commission (EEOC) voted on January 5, 2011, to finalize its regulations supporting the Americans with Disabilities Act Amendments Act (ADAAA). The final regulations will be reviewed by the Office of Management and Budget prior to public release, which should occur sometime later this year.

It is unknown what the EEOC changed (if anything) in the final regulations from the proposed version, but critics focused heavily on one particular issue. Specifically, the proposed regulations included a list of impairments that should be presumed to be disabilities without individual analysis. Critics noted that such broad-sweeping assumptions were not the intent of Congress. Instead, critics requested language stating that factors such as the duration, manner, and condition of a particular impairment should be considered in each specific case to determine whether such impairment “substantially limits a major life activity.”

The proposed regulations also changed the definition of “major life activity” and what constitutes substantial limitations in “working,” and they prohibit the consideration of mitigating measures when analyzing potential disabilities. Once the final regulations are published, employers should be prepared to review their disability policies and practices to comply with the new requirements.

General Civil Litigation

**Commercial Law &
Litigation**

**Municipal Law &
Litigation**

**Police Civil Liability
Defense**

**Employment Law &
Litigation**

Construction Litigation

**Corporate Law &
Government Contracting**

Insurance Defense

Railroad Law

**Corporate Counsel
Services**

DOL Administrator’s Opinion Attempts to Clarify FMLA Leave for “Son or Daughter”

The Family and Medical Leave Act (FMLA) allows employees leave time to take care of a “son or daughter” with a serious health condition. The statutory definition of “son or daughter” includes biological children, stepchildren, foster children, legal wards, and “a child of a person standing in loco parentis.” This “in loco parentis” language is discussed further by the accompanying FMLA regulations, which state that someone stands in loco parentis when they have day-to-day responsibility for caring for the well-being and financial support of the child.

Continued on Page 2

DOL Administrator's Opinion Attempts to Clarify FMLA Leave for "Son or Daughter"

...Continued from page 1

Earlier in 2010, the Department of Labor Administrator issued an interpretation of this definition. In the interpretation, the Administrator notes that Congress intended for this definition to include adults with day-to-day responsibilities for a child even where the adult has no legal responsibilities for, or biological connections to, the child. This means that same-sex couples may qualify for FMLA to care for their children even though same-sex couples may not qualify to take FMLA to care for their unmarried partner's serious health condition. So, while very few employment laws protect individuals or provide benefits on the basis of sexual orientation, this FMLA provision may be one of the first federal laws to do so.

While the DOL position is not law, it reflects the administration's viewpoints and can influence future court decisions. The DOL opinion is available here: http://www.dol.gov/whd/opinion/adminIntrprtn/FMLA/2010/FMLAAI2010_3.pdf.

FEES & BURGESS, P.C. - Calendar of Events

FEES & BURGESS, P.C., is proud to present and participate in the presentation of the following upcoming seminars/webinars :

January 19, 2011; 11:30 a.m. – 1:00 p.m. (CST), Holiday Inn, Research Park

Use of the New INCOTERMS ® 2010 in Domestic and International Transactions

This meeting presented by Jeff Roth and Allen Anderson, of Fees & Burgess, P.C., will help educate both buyers and sellers in the domestic and international arenas of changes found in the new and recently-released version of INCOTERMS ® 2010, which become effective January 1, 2011. This meeting will be held at the Holiday Inn, Research Park, conveniently located on University Drive.

January, 26, 2011, Huntsville, Al; 8:00 a.m.– 4:00 p.m. (CST), ABC Offices, Madison, AL

Risky Business in Construction Contracting: Reducing Risk and Increasing Profitability

This day-long program, presented by Allen Anderson, Jeff Roth, and Ryan Blount, of Fees & Burgess, P.C., is a must for focusing construction industry contractors on areas of business and compliance risk, and reviewing strategies for reducing and eliminating them.

April 14, 2011, Las Vegas, NV (In conjunction with IPC APEX EXPO)

Special Session: Contracting with the Customer: What the EMS Executive Needs to Know

This unique workshop presented by Jeffrey L. Roth and Allen L. Anderson, of Fees & Burgess, P.C., addresses the specific issues EMS companies face while contracting. Participants will be led through the contracting lifecycle between an electronic manufacturing services (EMS) provider and its customer, starting with the initial engagement and signing of a nondisclosure agreement, through the bid process and formal contract negotiation, to resolution of disputes under the applicable contract(s).

If you would like more information , on these and additional seminars, please go to www.feesburgess.com.



SPEAKERS

FEES & BURGESS, P.C., provides speakers, training programs, seminars, and webcasts for various trade associations; business groups; and clients. For information regarding a program, contact seminars@feesburgess.com.

NEWSLETTERS

FEES & BURGESS, P.C., also publishes *F&B Quarterly Bytes*, focusing on multiple practice areas; and *F&B SCM Memo*, focusing on the supply chain management industry. To receive any of these newsletters, please e-mail newsletters@feesburgess.com with your contact information.

To remove your name from our mailing list, please e-mail newsletters@feesburgess.com.

Michael L. Fees
mfees@feesburgess.com

C. Gregory Burgess
gburgess@feesburgess.com

Allen L. Anderson
anderson@feesburgess.com

Jeffrey L. Roth
jroth@feesburgess.com

FEES & BURGESS, P.C.
213 Green Street
Huntsville, Alabama 35801
Telephone (256) 536-0095
Facsimile (256) 536-4440

www.feesburgess.com

Stacy L. Moon
smoon@feesburgess.com

Leah M. Green
lgreen@feesburgess.com

Ryan G. Blount
rblount@feesburgess.com

Lauren A. Smith
lsmith@feesburgess.com

HR Corner should not be construed as legal advice or a legal opinion on any specific facts or circumstances. The contents are intended for general information purposes only. Anyone needing specific legal advice should consult an attorney.

“No representation is made that the quality of legal services to be performed is greater than the quality of legal services performed by other lawyers.”