



Dealing With Employees Who Want Information on Sick Co-Workers

News

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Sue Schaecher was quoted on *Love To Know Blogs* on December 22, 2014. The article “Dealing With Employees Who Want Information on Sick Co-Workers” discussed how although employees may feel that information about coworkers’ illnesses should be made available to them, employers are subject to compliance obligations that prohibit them from disclosing this type of information.

Sue stated, “Statutorily, the Americans With Disabilities Act (ADA) prohibits disclosure of medical information about an employee to anyone other than supervisors who need to know about restrictions on work duties, first aid and safety personnel, governmental officials and insurance companies under limited circumstances.”

She added, “When the Equal Employment Opportunity Commission (EEOC) published its guidance on pandemics, it reminded employers of these limits.” See *Pandemic Preparedness in the Workplace and the Americans With Disabilities Act* to review the complete EEOC guidance document.

Employers must also take care to avoid actions that could be viewed as an invasion of an employee’s privacy. Schaecher points out, “Colorado and most jurisdictions recognize a common law claim for invasion of privacy by unreasonable publicity given to one’s private life.”

She explained, “To prevail on such a claim, an individual must show

- The fact or facts disclosed are private in nature
- The disclosure was made to the public
- The disclosure would be highly offensive to a reasonable person
- The fact or facts disclosed are not of legitimate concern to the public
- The defendant acted with reckless disregard of the private nature of the fact or facts disclosed”

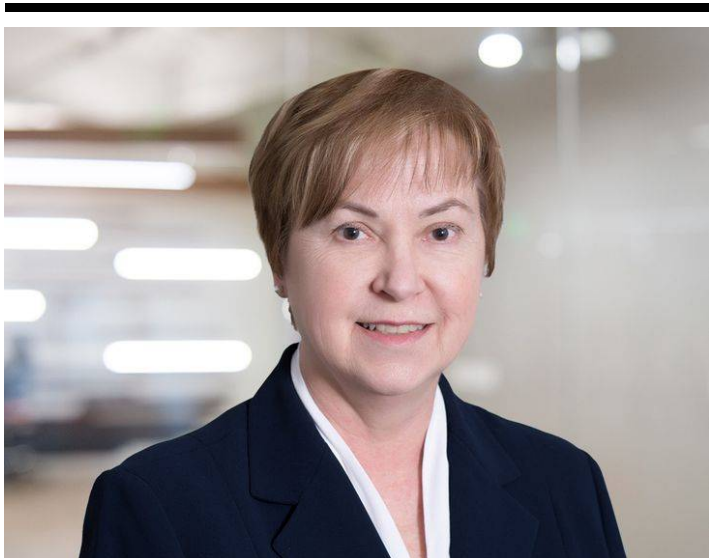
Schaecher indicated, “Disclosing to a number of coworkers that an employee has an infectious disease would likely satisfy the first three elements. Whether the fourth and fifth elements are met will depend upon the facts of each individual case.”

She advised, “Employers should avoid making such a disclosure unless disclosure of the information is necessary to avoid death or serious harm to the person to whom the disclosure is made.”

To read the full article, please visit [Love To Know Blogs](#).

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