

THRIFT SHOP TO PAY \$50,000 FOR ALLEGEDLY DISCRIMINATING STOCKER WITH EPILEPSY



A retailer based in Modesto, CA, will be settling a disability discrimination lawsuit to the tune of 50,000 dollars. The suit was filed on a terminated employee's behalf by the U.S. Equal Employment Opportunity Commission (EEOC). Buy Rite Thrift Store allegedly fired a stocker working the night shift after he experienced mild seizures at the workplace due to his epilepsy. The store decided that the man was a danger to himself and others and consequently terminated his employment. According to the EEOC, Buy Rite should have abided by the law and requested that the employee undergo a fitness exam or supply medical documentation verifying that he is able to perform the duties that his job demands. "It was a hard blow to lose my job because of my employer's response to my epilepsy," the former employee said in an EEOC press release. "For 17 years, I have done similar work before as a stocker and cashier at a grocery store. Having mild seizures at work never stopped me from getting my job done successfully. I hope my experience can help others learn to look beyond their fears about epilepsy, and instead focus on what a worker like me can actually do." The thrift shop's alleged reaction to the man's condition would be a violation of the Americans with Disabilities Act (ADA), which prohibits discrimination against workers with disabilities and requires that employers provide reasonable accommodations to such employees. Title I of the Act, which was signed into law in 1990 and revised with the ADA Amendments Act in 2008, is concerned with employment and also covers medical examinations and inquiries. Medical records are confidential, and an employee cannot ask a job applicant about the "existence, nature or severity" of a disability. An applicant, however, may be asked if he/she can handle certain



functions related to the job.

EEOC Investigator Rosa Salazar looked into the case, and the Commission initially tried to reach a pre-litigation agreement with Buy Rite. The lawsuit was filed in the U.S. District Court for the Northern District of California in September of 2011. The company worked with the EEOC to settle the case before the owners sold the business in December. EEOC San Francisco Regional Attorney William R. Tamayo said, "The Centers for Disease Control estimates that two million Americans have epilepsy. Given that each person is impacted by epilepsy to varying degrees and in different ways, it would be a huge mistake to assume that having seizures automatically disqualifies an employee from performing a job. It's critical to use objective evidence to determine whether that particular worker can perform the duties of the specific position." "Disability discrimination is both illegal and bad business," said Michael Baldonado, EEOC San Francisco District Director. "Employers may lose out on talented and loyal employees if they rely upon myths and stereotypes about disabilities instead [of] making an unbiased evaluation of each individual."