

## CONSULTANT AGENCY SETTLES DISABILITY DISCRIMINATION LAWSUIT WITH \$80,000



A consultant company, JES Personnel Consultants, Inc., operating as Genie Temporary Service, will be paying \$80,000 as part of a disability discrimination settlement. The EEOC (Equal Employment Opportunity Commission) had filed a lawsuit on behalf of a former employee, who had allegedly not been allowed to return to work due to his epilepsy. JES/Genie, a temporary service agency that provides employees for client employers, had placed the man with Clover Technologies Group, LLC, where his duties included unpacking and sorting ink cartridges. On the first day of work, he had a mild epileptic seizure. According to an EEOC administrative investigation, managed by the agency's Chicago District Director, John Rowe, Clover permitted the employee to work for the remainder of the day but requested a doctor's note that authorized him to go back to work. The man gave the note to management the following day, but the company allegedly did not state that the note was erroneous or forward it to Clover, and the man was not allowed to return – so that he was in reality terminated. The suit, claiming a violation of the ADA (Americans with Disabilities Act), was filed by the EEOC in the U.S. District Court for the Northern District of Illinois, Eastern Division. A settlement prior to litigation was initially attempted. After the filing of the action, the employee joined the lawsuit with his own attorney. A consent decree between both parties was reached, including the \$80,000 payment for both the worker and his lawyer. JES recently informed the court that the company would soon be out of business. Consequently, the terms of the decree dictate that if JES, its president or its owner were to reestablish a similar business, then the business must implement an ADA-compliant policy. That policy should, at the very least, do the following: create a way for a disabled worker to request an accommodation; if an employee wishes to return to work after taking medical leave, the company can only insist on a medical exam if it's related to the job and necessary for the business; and if JES is provided with a doctor's note allowing an employee to return to work, and determines that the note is inadequate, it must explain the reasons that it's reached such a conclusion. According to Gordon Waldron, a senior trial attorney who worked on the case, the agreement to arrive at a consent decree successfully settled the case without the delay of added discovery and a subsequent trial. "This case should be a reminder that employment agencies have obligations to comply with federal law against disability discrimination," John Hendrickson, the regional attorney for the EEOC's Chicago District Office, said in an EEOC press release. The EEOC Supervisory Attorney Gregory Gochanour noted that "employment agencies need to promptly advise their employees if they conclude that a medical authorization does not present sufficient evidence that the employee is qualified to work." The employee would then be able to obtain additional details from his/her physician. The EEOC's Chicago District Office processes discrimination charges and conducts litigation. In addition to Illinois, it works in North and South Dakota, Iowa, Minnesota and Wisconsin, and has Area Offices in Minneapolis and Milwaukee.