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LABOR & EMPLOYMENT LAW ALERT

Governor Signs Law Prohibiting Discrimination Based on Genetic Information

On September 9, 2013, Governor Alejandro García Padilla signed into law P.R. Act Number 107 of 2013 ("Act 107") which prohibits discrimination against any person on account of their genetic information.

Specifically, Act 107 prohibits employers from using genetic information in making employment decisions, including hiring, determination of salary or benefits, work assignments, promotions, dismissals and/or any other term and condition of employment. Act 107 also prohibits employers from requiring employees or candidates for employment to submit to genetic testing or from acquiring such information by other means.

However, as an exception, Act 107 permits the use of genetic information in limited circumstances, such as: to evaluate requests for reasonable accommodations related to genetically-identifiable disabilities; to assist in the health and wellbeing of the employee; or, to monitor the genetic effects of toxic substances in the workplace. Employers must protect the confidentiality of their employees' genetic information by keeping it in a separate file, which must be treated as confidential medical information. Employers may only divulge this information under limited circumstances detailed in Act 107.

Act 107 further prohibits health insurance plans from denying coverage based solely on a genetic predisposition of developing a medical condition in the future, or from using of genetic information in making decisions regarding coverage of a specific benefit or service. Act 107 also prohibits health insurance plans from requiring individuals to provide their genetic information, or such information of their family members, to determine eligibility or rates of coverage.

Any violation to Act 107 constitutes a felony which is subject to fines of \$10,000 for the first offense and \$20,000 for subsequent offenses. Victims of discrimination based on their genetic information may sue for treble damages.

If you have any questions or comments, or wish additional information regarding the above matters, please contact any of the following attorneys:

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