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PRESS RELEASE

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Cummins Power Generation to Pay Over \$87,000 to Resolve EEOC Disability Lawsuit

Company Fired Employee for Objecting to Overbroad Medical Releases for Fitness-for-Duty Examination, Federal Agency Charged

MINNEAPOLIS - A Minneapolis-based power company will pay \$87,500 and furnish other relief to settle a disability discrimination lawsuit by the U.S. Equal Employment Opportunity Commission (EEOC), the federal agency announced today.

EEOC said Cummins Power Generation, Inc. violated the Americans with Disabilities Act (ADA) and the Genetic Information Nondiscrimination Act (GINA) when it required an employee to sign an overbroad release of medical records to take a fitness-for-duty examination, and sent him a questionnaire in connection with the examination seeking family medical history, and then fired him when he objected to the breadth of the release.

According to EEOC's lawsuit, the release of medical records was not narrowly tailored to his job requirements. Although the employee raised his concerns about the scope of the medical release to Cummins Power Generation, its managers refused to narrow the release. Cummins Power Generation argued that the release was required by its third-party vendor, which would perform the fitness-for-duty examination. It engaged another provider, which sought family medical information from the employee. After the employee refused to sign the releases, Cummins Power Generation terminated his employment.

EEOC filed its lawsuit in 2014, EEOC v. Cummins Power Generation; Civil Action No. 0:14-cv-3408, (D. Minn.) (SRN/SER), in U.S. District Court for the District of Minnesota after first attempting to reach a pre-litigation settlement through its conciliation process

During the litigation, Cummins Power Generation defended itself by claiming that vendors who drafted the releases were indispensable parties to EEOC's suit. EEOC brought a successful motion to obtain dismissal of this defense. The court held that "Cummins, as the employer, is liable for a violation of the ADA or GINA related to [the

release] 'regardless of whether third parties [were] also involved in the discrimination.'" (*EEOC v. Cummins Power Generation, Inc.*, 313 F.R.D. 93 (D. Minn. 2015).

The suit was resolved on May 6, 2016, when Judge Susan Richard Nelson approved the consent decree. Under its terms, Cummins will pay \$87,500 to the former employee, with a portion of that going to his private attorney. In addition to the monetary damages, Cummins agreed that, when seeking a fitness-for-duty examination, it will request only records and information that are job-related and consistent with business necessity. It further agrees it will advise all its vendors performing such examinations of this requirement, as well as notifying them that they are not to provide Cummins with any information about an individual's family medical history. Cummins will also be required to submit regular reports to EEOC, and conduct training on the ADA and GINA for human resources and management employees involved in obtaining releases for fitness for duty examinations.

"We are very pleased to reach this settlement," said John Hendrickson, EEOC's regional attorney in Chicago. "This case resolved an important legal issue, establishing that employers cannot avoid their responsibilities under the ADA and GINA by relying on the decisions of their vendors. The buck stops with the employer."

According to company information, Cummins Power Generation ([www.power.cummins.com](http://www.power.cummins.com)) is a global provider of power generation systems, components and services. It maintains facilities in Minnesota and Indiana.

The Chicago District office is responsible for processing charges of discrimination, administrative enforcement and the conduct of agency litigation in Minnesota, North Dakota, South Dakota, Wisconsin, Illinois and Iowa, with Area Offices in Milwaukee and Minneapolis. EEOC enforces federal laws prohibiting employment discrimination. Further information about EEOC is available on its website at [www.eeoc.gov](http://www.eeoc.gov).

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