

Memorandum to Municipal Clients

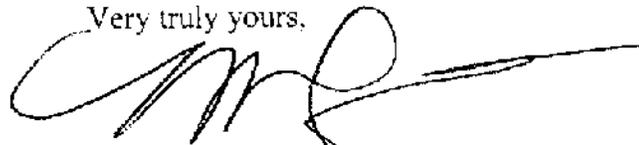
Page 2

reject out-of-hand requests for accommodation that are made by employees, and maintain a record of efforts made to engage in such a dialogue and the results of the dialogue. Even given the changes made by the ADAAA, employers are not required to simply acquiesce to every employee request for accommodation. However, as a result of the ADAAA, we expect that courts will more closely scrutinize how the employer responds to an employee's request for accommodation when analyzing a disability discrimination claim subsequently filed by the employee.

The interplay between the ADA, federal Family and Medical Leave Act ("FMLA"), workers' compensation (including benefits under G.L. c. 41, §111F), and the state anti-discrimination law, can often prove intricate and complicated to negotiate. For example, an employee may request that he or she be allowed extended time off from work (or a leave of absence) to seek treatment for a medical condition. Even if the employee's medical condition does not meet the legal definition of a "disability" under the ADA, it may be a "serious health condition" under the FMLA. Alternatively, even if the requested leave of absence does not meet the legal definition of a "reasonable accommodation" under the ADA due to the particular circumstances of the employee's job, the employee may be entitled to that time off in any event under the FMLA.

As noted above, the EEOC is in the process of amending its regulations in light of the ADAAA. Once finalized, these regulations may implement further requirements for employers under the ADA. Adoption of these regulations has been delayed due to the transition from the Bush Administration to the Obama Administration. However, we anticipate that the regulations should be finalized by the end of this year, and we will notify you when they are issued. Even though the new regulations have not been issued, the changes made as a result of the ADAAA are currently in effect, and therefore you should be aware of the broadened scope of the ADA, as noted above.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Michele E. Randazzo', with a long horizontal flourish extending to the right.

Michele E. Randazzo