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You don't have to wear blinders to an applicant's known disability

Sheet-metal worker Roosevelt Harris received his jobs through a union hiring hall. During one assignment, he complained to the union that the company failed to accommodate his carpal tunnel syndrome. A settlement allowed Harris to work at the company again if he was qualified and physically able to do the work.

But when the union sent Harris back to the same site, he refused to provide the medical release the employer requested. It refused to hire him and he filed suit, claiming the request was illegal under the Americans with Disabilities Act.

Although the ADA generally bars a pre-offer medical exam or inquiry about a disability, a court said this employer's request was legal.

The court said you can make medical inquiries about a worker applying for re-employment whom you know has a disability. That includes requiring medical certification of ability to work and any type of reasonable accommodation. (Harris v. Harris & Hart, No. 98-35949, 9th Cir., 2000)

Advice: While the ADA does limit pre-offer medical inquiries, these limits are not absolute. As the court noted, you aren't required to have "amnesia" about a former employee's medical problems when he requests an accommodation.

The district court cited three exceptions to ADA's bar on pre-offer medical inquiries:

- When they relate to the applicant's ability to perform the job.
- When an employer could reasonably believe a known disability will interfere with the ability to do the job.
- When the applicant requests an accommodation for the application or for the job.

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