

(an)G(el)INA



The Earth stopped rotating on its axis earlier this week when Angelina Jolie announced that she is undergoing a voluntary double mastectomy. Her rationale? Because she carries the BRCA1 gene, she is 87 percent likely to contract breast cancer at some point in her life.

Have you heard of [GINA, the Genetic Information Nondiscrimination Act](#)? As [Phil Miles points out on his Lawffice Space blog](#), Ms. Jolie "just became the poster-child for GINA."

Among other things, GINA prohibits employers from:

1. making an employment-related decision with respect to an employee because of genetic information; or
2. requesting or requiring that an employee disclose their own genetic information, or that of a family member.

It is fortuitous that Ms. Jolie has done so much to raise the profile of genetic profiling, since earlier this week, the [EEOC announced](#) that it settled the very first case it ever filed alleging genetic information discrimination. In its lawsuit, the EEOC alleged that the employer violated GINA when it asked an employee for a family medical history as part of its post-offer pre-employment medical examination. The EEOC's press release quotes EEOC Regional Attorney Barbara Seely, "Although GINA has been law since 2009, many employers still do not understand that requesting family medical history, even through a contract medical examiner, violates this law."

Ms. Seely is correct. Even though GINA has been law for more the four years, it is seldom discussed or understood. Employers need to take this lesson to heart. Genetics—both an employee's and that of one's family members—is off limits in employment.

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