

- **EEOC v. Tucker Plumbing, Inc.**

No. 03 1903 PHX (D. Ariz. November 30, 2004)

The Phoenix District Office filed this ADA case alleging that defendant, which provides plumbing installation services for new residential construction, failed to provide the charging party with a reasonable accommodation for his disability and ultimately terminated his employment based on his disability. Charging party worked for defendant for 16 years, as a plumber for the first 3 years, and as a plumbing supervisor for 13. In September 2001, due to complications from his diabetes, charging party's leg was amputated below the knee. After another surgery, a convalescence, and obtaining a prosthesis, charging party asked to return to work effective April 1, 2002. He was able to perform the essential functions of the job, which in addition to administrative work required walking portions of the site to check that the plumbing work was done correctly prior to having an official inspection. Defendant had filled charging party's position 12 weeks after his initial surgery, but withheld this information in several discussions with charging party. Defendant formally terminated charging party on April 1, 2002.

The parties resolved the case through a 3-year consent decree which provides that defendant will pay charging party \$112,500 in compensatory damages. The decree enjoins defendant from discriminating against employees based on disability or retaliating against them. The decree also contains extensive affirmative relief, including a requirement that defendant retain a trainer, approved by EEOC, to provide all managers, officers, and directors with annual training on disability discrimination and retaliation. At the training, defendant's president will speak about the importance of preventing disability discrimination, the legal consequences faced by companies that tolerate such misconduct, and evaluating managers based on their enforcement of company disability discrimination policies. Should defendant fail to comply with any provision of the decree, a penalty of \$50 per day will accrue until defendant is again in compliance, and defendant will pay all attorney's fees and costs incurred by EEOC to enforce the decree.