

- **EEOC v. Family Dollar Services**

No. 5:03-00083 (W.D. Va. July 29, 2004)

The Baltimore District Office filed this action, alleging that a discount retail chain unlawfully failed to accommodate CP and then terminated her employment from a Front Royal, Virginia regional distribution center in violation of the ADA. Charging party was employed as Receiving Checker responsible for unloading freight from trucks and taking inventory of delivered goods. In the spring of 2000, CP underwent two surgeries for breast cancer, which left her with a musculoskeletal condition that restricts her ability to lift more than 15 pounds. Consequently, Respondent placed her on light duty for six weeks. When she resumed her position as a full-time Receiver Checker, CP was able to perform her duties in a satisfactory manner with the assistance of lumpers (independent contractors retained to unload trucks) who were available to handle the physical unloading. Near the close of the year, defendant said it was discontinuing the use of lumpers and informed CP that unloading was an essential function of her job and that she was either going to have to find other employment or take medical leave. CP declined the medical leave offer and was assigned to unload a truck. When she reiterated that she had a lifting restriction, defendant said that it could no longer cater to her needs and sent her home. By mid January 2001, CP had been discharged even though there was evidence that the reduction in lumpers was temporary and lasted only for the Christmas season.

The case was resolved by a one-year consent decree that requires defendant to pay \$12,000 in back pay and \$38,000 in compensatory damages to CP. The decree prohibits defendant from discriminating in any phase of employment against individuals with a musculoskeletal condition resulting from cancer surgery. Using a competent instructor, defendant also will provide ADA training to its managers and HR staff at the Front Royal site on issues such as reasonable accommodation and employee rights under the ADA. New management employees will receive training on the ADA and the company's internal anti-discrimination policies during orientation.