

# **Developments in Discrimination Law 2017-2018**



**James H. Kizziar, Jr.**  
**Partner**  
**Bracewell LLP**

## **Administrative Developments**

## **Equal Employment Opportunity Commission**

- **Focus of EEOC Strategic Enforcement Plan FY 2017-2021**
  - **Qualification standards**
  - **Inflexible leave policies**
  - **Pregnancy-related limitations**
- **EEOC Litigation Trends**
  - **77 of 184 lawsuit filings contain ADA claims**
- **Trends in EEOC Settlements and Consent Decrees**

## **Department of Labor Opinion Letter**

- **April 13, 2018 FLSA Opinion Letter**
- **Up to 20-minute breaks are typically compensated as primarily beneficial to the employer**
- **Breaks to accommodate medical condition are for the benefit of employee and may be uncompensated**
- **Employers must not discriminate on breaks**
  - **Compensate breaks that other employees receive even if used by employee to accommodate a medical condition**

# Court Decisions on Disability Issues

## Impairments Must Limit a Major Life Activity

- Assistant Addictions Counselor alleged status as former alcoholic and alleged that complaints about treatment of patients led to undesirable assignments and no promotion
- Failed to state a claim because he did not allege he was disabled
  - Assumed Former alcoholic status was a disability
  - Did not allege how status currently limited a major life activity

*Johnson v. NY State Office of Alcoholism and Substance Abuse Servs.*

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](https://utcle.org/elibrary)

Title search: Developments in Discrimination Law

Also available as part of the eCourse

[2018 Labor and Employment Law eConference](#)

First appeared as part of the conference materials for the  
25<sup>th</sup> Annual Labor and Employment Law Conference session  
"Developments in Disability Discrimination Law"