

APPLYING FOR EMPLOYMENT WITH A DISABILITY - REASONABLE ACCOMMODATIONS, UNDUE HARDSHIP AND PROHIBITED INJURIES AND EXAMINATIONS

“Unfortunately, individuals who have a real or perceived disability continue to suffer discrimination in the workplace though, hindering their ability to earn a living and enjoy an independent life.”

The image shows a collage of newspaper classified advertisements and an 'APPLICATION FOR EMPLOYMENT' form. The advertisements are for various roles such as 'LEGAL SECRETARY', 'MACHINIST', 'PHYSICIAN', 'Nurses', '240 Health Care', 'APHERESIS DONOR', 'BUSINESS OFFICE', and 'PATIENT ACCOUNTS REPRESENTATIVE'. The application form is titled 'APPLICATION FOR EMPLOYMENT (PRE-EMPLOYMENT QUESTIONNAIRE) (AN EQUAL OPPORTUNITY EMPLOYER)'. It includes sections for 'FORMER EMPLOYERS (LIST...)', 'PERSONAL INFORMATION' (Name, Present Address, Permanent Address, Phone No.), 'SPECIAL QUESTIONS' (Height, Weight, etc.), and 'PHYSICAL' (Do you have any physical conditions?). The form also includes a section for 'REFERENCES' and a section for 'SPECIAL QUESTIONS' with checkboxes for 'Citizen of U.S.', 'Date of Birth', and 'Are you 18 years or older?'. The form is partially filled out with handwritten text.

FORMER EMPLOYERS (LIST...)

DATE _____
MONTH _____
YEAR _____

APPLICATION FOR EMPLOYMENT
(PRE-EMPLOYMENT QUESTIONNAIRE) (AN EQUAL OPPORTUNITY EMPLOYER)

PERSONAL INFORMATION

NAME LAST FIRST MIDDLE CITY STATE SOCIAL SECURITY NUMBER DATE
PRESENT ADDRESS STREET CITY STATE
PERMANENT ADDRESS STREET CITY STATE
PHONE NO. _____

SPECIAL QUESTIONS
DO NOT ANSWER ANY OF THE QUESTIONS IN THIS FRAMED AREA UNLESS THE EMPLOYER HAS CHECKED A BOX PRECEDING A QUESTION, THEREBY INDICATING THAT THE INFORMATION IS REQUIRED FOR A BONA FIDE OCCUPATIONAL QUALIFICATION, OR DICTATED BY NATIONAL SECURITY LAWS, OR IS NEEDED FOR OTHER LEGALLY PERMISSIBLE REASONS.

Height _____ feet _____ inches
 Weight _____ lbs.
 Do you speak fluently? _____

Citizen of U.S. Yes _____ No _____
 Date of Birth* _____
Read _____ Write _____

PHYSICAL
DO YOU HAVE ANY PHYSICAL CONDITIONS? _____

PLEASE DESCRIBE _____

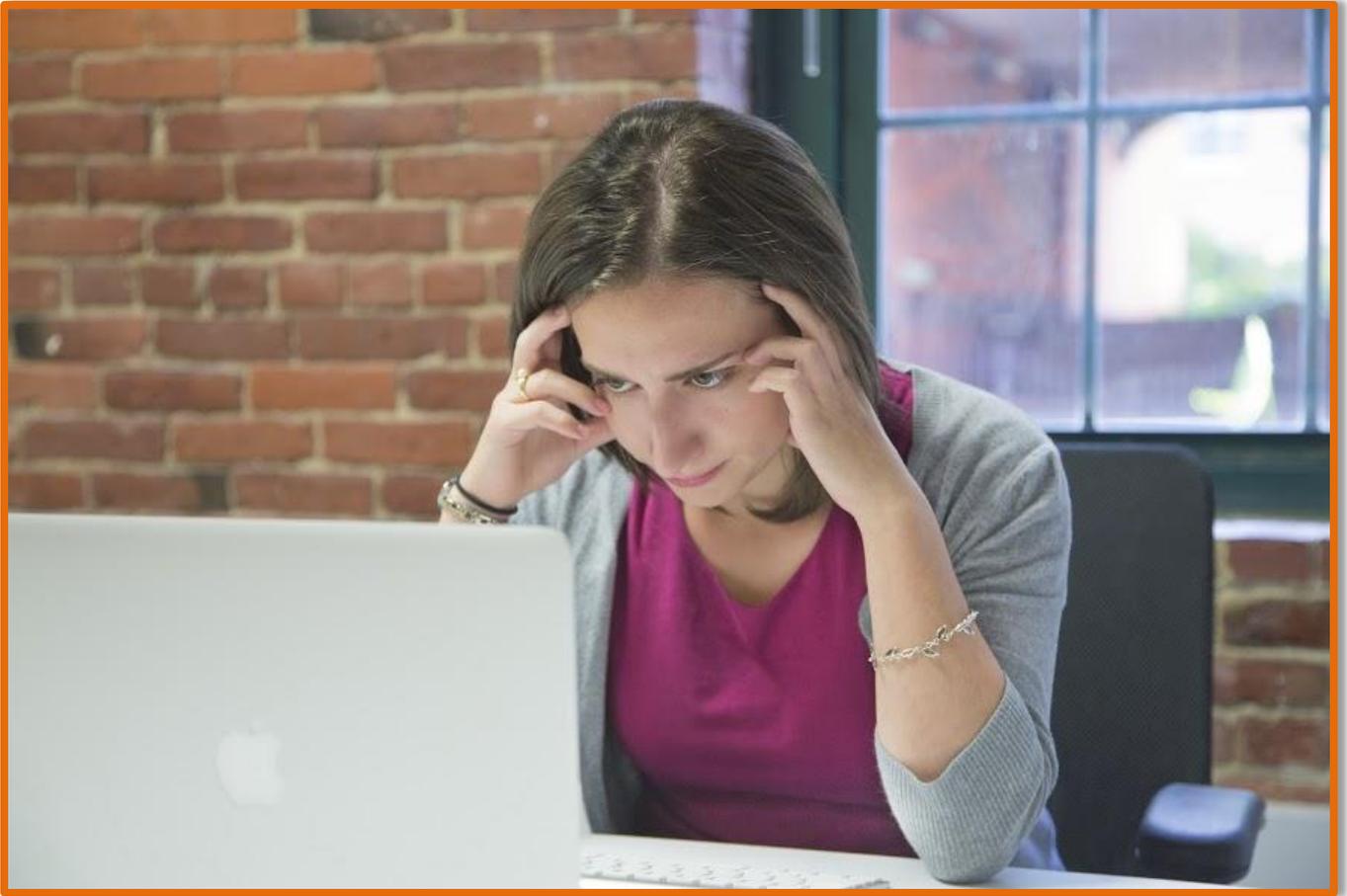
IN CASE OF EMERGENCY NOTIFY _____

I CERTIFY THAT THE INFORMATION I HAVE PROVIDED IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

Discrimination in Employment Act of 1967 prohibits discrimination on the basis of age with respect to individuals who are 40 years of age or older.

DATE YOU START _____ SALARY DESIRED _____

Richard Celler



Thanks to advancements in medicine, science, and technology over the last century, many individuals who would once have been unable to work and live independently can now do so. Unfortunately, individuals who have a real or perceived disability continue to suffer discrimination in the workplace though, hindering their ability to earn a living and enjoy an independent life.

If you meet the legal definition of “disabled” and are seeking employment, or are already in the workforce, you should have at least a basic understanding of the state and federal laws that protect you from disability based discrimination in the workplace. Specifically, you should be familiar with the concepts of “reasonable accommodations” and “undue hardship” as well as know what pre-employment injuries and examinations are prohibited by a prospective employer.

WHAT IS DISABILITY DISCRIMINATION AND WHO QUALIFIES AS “DISABLED”?

According to the U.S. Equal Employment Opportunity Commission, or EEOC, disability discrimination occurs when “a covered employer or other entity treats an applicant or employee less favorably because she has a history of a disability (such as cancer that is controlled or in remission) or because she is believed to have a physical or mental impairment that is not transitory (lasting or expected to



last six months or less) and minor (even if she does not have such an impairment).”

As a Florida resident and/or worker, both the Florida Civil Rights Act, (FCRA) and the federal Americans with Disabilities Act (ADA) protect you against discrimination in the

workplace. If you are a federal government employee or applicant, the Rehabilitation Act of 1973 protects you against illegal disability discrimination. The ADA considers you to be disabled if “*you have a physical or mental impairment that substantially limits a major life activity.*” You are also protected if you have a *history* of such a disability or if the employer *believes* you have such a disability.

WHAT IS A “REASONABLE ACCOMODATION”?

Under the ADA, a disabled individual is protected from employment discrimination if the individual is **qualified to perform the job in question with or without reasonable accommodation**. There are actually two things to consider when determining if you are protected. First, you need to consider whether or not you are qualified for the job, meaning you must have the requisite education, skills, experience, or abilities required by the employer to perform the essential functions of the job.

Second, can you perform the essential job functions with or without reasonable accommodations? According to the EEOC, a reasonable accommodation is “any change in the work environment (or in the way things are usually done) to help a person with a disability apply for a job, perform the duties of a job, or enjoy the benefits and privileges of employment.” Some examples of reasonable accommodations may include, but are not limited to:

- Providing modified equipment
- Offering a modified work schedule
- Adjusting or modifying examinations, training materials, or policies
- Reassigning the employee to another position
- Providing an interpreter or readers to blind or hearing impaired employees

Making the workspace accessible to employees in wheelchairs

UNDUE HARDSHIP – THE LIMITS OF “REASONABLE ACCOMMODATIONS”

Understandably, there is a limit to what is expected of an employer with regard to making “reasonable accommodations” for disabled employees. The ADA says that an employer is required to make reasonable accommodations unless the employer can show that doing so would be an “undue hardship” on the employer. The “undue hardship” exception is **not** a simple way out for an employer who



Reasonable Accommodation *in the workplace*

does not want to have to comply with the “reasonable accommodations” requirement.

The law defines “undue hardship” as something that will cause the employer a **significant** difficulty or expense. An employer is expected to bear *some* costs associated with making reasonable accommodations.

According to the EEOC, the majority of accommodations will not cost an employer more than \$500.

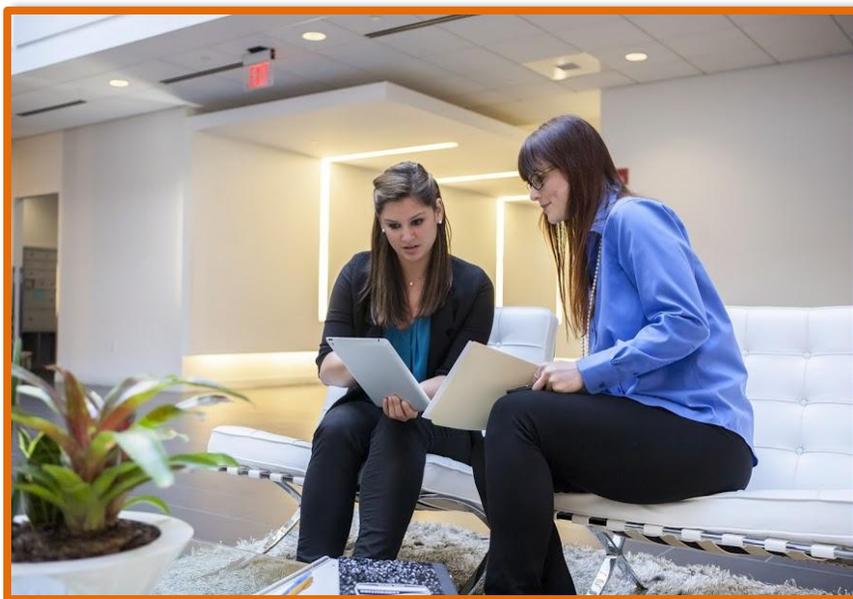
When determining if making reasonable accommodations amounts to an undue hardship the following factors will typically be considered:

- The nature and cost of the accommodation requested
- The financial resources available to the employer. As a general rule, the larger the company the more assets are available to the company to make the requested accommodations.

Previous costs incurred by the employer for accommodations

PROHIBITED INQUIRIES AND EXAMINATIONS

One more thing a disabled job applicant needs to know is that the law also protects an applicant from answering medical questions relating to a disability as well as from being required to submit to a medical examination before a job offer



has been extended. In other words, if you are interviewing for a job, the prospective employer **cannot** ask you if you have nor about the type or severity of your disability if your disability is apparent. A prospective employer **can** ask you how you will

perform the essential functions of the job though.

In addition, although you **cannot** be asked to take a medical examination unless and until an offer of employment has been extended to you and then *only if all entering employees for the same position are required to submit to the same medical examination.*

As a disabled job applicant it is important for you to have a basic understanding



of what the law requires from an employer when you apply for a position with the employer. If you believe that you have been discriminated against by an employer, you should consult with an experienced Florida employment law

attorney right away. You could be entitled to both compensatory and punitive damages; however, the law limits the amount of time within which you have to pursue a claim for disability discrimination in employment.

U.S. Equal Employment Opportunity Commission, [Disability Discrimination](#)

U.S. Equal Employment Opportunity Commission, [The ADA: Your Employment Rights as an Individual with a Disability](#)

U.S. Equal Employment Opportunity Commission, [Questions and Answers: Promoting Employment of Individuals with Disabilities in the Federal Workforce](#)

OPM.gov, [Disability Employment](#)

U.S. Equal Employment Opportunity Commission, [Enforcement Guidance: Reasonable Accommodation and Undue Hardship under the Americans with Disabilities Act](#)

Florida Statutes, [Florida Civil Rights Act](#)

About the Author



Richard Celler

Richard Celler is the Managing Partner of Richard Celler Legal, P.A., a/k/a the Florida Overtime Lawyer. He created this firm after having served as the Founding Member and Managing Partner of one of the largest employee/plaintiff side employment law divisions in the United States.

In November 2013, Mr. Celler left big firm life with the idea of reopening his own litigation firm with an emphasis on something most big firms cannot provide – a lower volume of cases, and more focus on the needs and attention of every single client.

Mr. Celler's practice focuses on all areas of the employment context from discrimination, harassment, and retaliation under the Florida Civil Rights Act, Title VII, the Family Medical Leave Act, and other employment related statutes. Additionally, Mr. Celler represents individuals in whistleblower and wage and hour litigation (overtime, minimum wage, commissions, final paychecks).

Many firms charge clients for an initial consultation to discuss their claims. Mr. Celler does not. You can call him or email him to discuss your case for free. If he elects to represent you, your case will be handled on a contingency basis, which means that he only gets paid, if you get paid. We encourage you to look at the remainder of our website for information on your rights and benefits in the workplace – www.floridaovertimelawyer.com.

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