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**SUPREME JUDICIAL COURT AFFIRMS c. 151B's COVERAGE EXTENDS TO
DISCRIMINATION BASED ON ASSOCIATION WITH A HANDICAPPED
INDIVIDUAL**

July 22, 2013 – Boston, MA. On Friday, July 19, 2013, the Supreme Judicial Court (“SJC”) issued a decision recognizing, for the first time, protections for those individuals discriminated in the workplace because of their association with a handicapped individual. The case, *Marc Flagg v. AliMed*, raised the issue of whether a claim of “associational discrimination based on handicap” is cognizable under G.L. c. 151B, Section 4(16). Answering in the affirmative, the Court acknowledged longstanding precedent of the Massachusetts Commission Against Discrimination (MCAD) consistently interpreting the protections of Chapter 151B to extend to claims of associational discrimination. The Court emphasized that MCAD is charged with the primary responsibility to determine the scope of c. 151B and accorded the Commission’s interpretation “the deference which it is due.”

The plaintiff, Marc Flagg, filed a civil action against his former employer, AliMed, alleging among other things that his employment was unlawfully terminated because of his wife’s serious medical condition and the significant health insurance costs associated with providing her medical care covered by AliMed’s health plan. AliMed moved to dismiss the plaintiff’s claim arguing that Flagg had failed to state a claim, under c. 151B, upon which relief could be granted, because the statute’s prohibition refers to the discrimination against an employee, “because of [the employee’s] handicap.” A Superior Court judge granted AliMed’s motion to dismiss in December 2010, and Flagg appealed. The Supreme Judicial Court, on its own initiative, transferred the case from the Appeals Court.

AliMed argued that the language of c. 151B, § 4 (16) precludes Flagg from raising a claim of associational handicap discrimination because the handicapped person at issue is not the employee, but the employee’s wife. The Court rejected AliMed’s reading of the statute as too narrow. The Court reasoned that the Legislative intent of the statute mandates that its provisions be interpreted broadly in order to effectuate its remedial purpose, with provisions that establish a “categorical prohibition against discrimination in the workplace generally.” The Court noted that the concept of associational discrimination furthers the more general purposes of c. 151B to remove the “artificial, arbitrary, and unnecessary barriers to full participation in the workplace that are based on discrimination.” The Court concluded that based on the Legislature’s expansive definition of “handicap,” the language of § 4(16) is properly read to accommodate the concept of handicap discrimination based on association. Additionally, the Court compared the language of G.L. c.151B to similar provisions in Title VII and the Rehabilitation Act, which Federal courts have construed as prohibiting discrimination based on association. In a concurring opinion, the Court cautioned that it would be reluctant to interpret Chapter 151B’s protections for associational disability discrimination as extending beyond the protections provided by the ADA.

Commission Counsel, J. Lynn Milinazzo-Gaudet, filed the Amicus Brief on behalf of the Commission.

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