

**AIDS Legal Referral Panel**  
**Employment Issues Facing Clients with HIV/AIDS**  
**Sonya L. Smallets, Esq., Minnis & Smallets LLP**

- You receive a call from Michael, a potential client. Michael is HIV+. Michael works as a legal assistant by a large, private law firm. At the firm, Michael provides support to two partners and one associate, as well as helping other legal assistants as needed. Michael has worked at the firm for several years without incident. He has consistently been rated as exceeding expectations.
- Michael was just diagnosed with pneumonia, which his doctor informed him is an opportunist infection often suffered by people who are HIV+. Michael's doctor told him that he should expect to need several weeks to a few months off work to heal and recuperate. Michael is nervous to discuss his illness with his manager, Mean Manager, the director of support services for the firm, as Michael believes that Mean has been unhappy when other legal assistants have needed to take time off work for medical reasons. He wants to know how to proceed.
- Michael calls you several months later. He tells you that he returned to work from FMLA/CFRA leave after being off work for two months. Michael reports that since his return, Mean Manager and Petulant Partner, one of the two partners he supports, have been giving him more work than he was expected to complete prior to his medical leave. Michael is still experiencing ongoing fatigue and is having a hard time working enough hours to complete the additional tasks being assigned to him. Michael wants to know what his options are.
- Michael does as you suggest and requests and is granted a reasonable accommodation.

- A few months later, Michael receives the first performance review he has received since he took FMLA/CFRA leave. He is rated as meeting expectations. In the review, he receives positive comments and ratings from Pleasant Partner and Amiable Associate. However, Petulant Partner criticizes him for not being sufficiently "responsive" to Petulant Partner's requests and Mean criticizes him for his "lack of professionalism." Shortly thereafter, the firm places Michael on a performance improvement plan, instructing him to improve his responsiveness and professionalism. Michael again calls you. He is understandably quite upset. He believes that he was placed on the performance improvement plan because of his disability.
- The firm fires Michael the day the PIP ends. He calls you, asking you to represent him in a lawsuit against the firm.