

Developments in Disability Discrimination Law 2015 - 2016



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EEOC Addresses ADA Rights of HIV- Positive Individuals

- December 1, 2015 – “Living With HIV Infection”
 - Employer requests for medical information
 - Employee may keep condition private in response to non-medical inquiries; employer may act based on response provided
 - Reasonable Accommodations: “May be good enough” to describe HIV as an “immune disorder”
 - Employer cannot take action based on myths or stereotypes about HIV/AIDS, but may terminate HIV-positive employee unable to perform job

Numeric Affirmative Action Goals For Federal Agencies

- February 24, 2016 – EEOC Proposed Rule
 - Applies to Federal Agencies: “special responsibility to lead by example”
 - Goals:
 - 12% of workforce – individuals with disabilities
 - 2% of workforce – targeted / severe disabilities
 - “Concrete steps” to employing disabled individuals
 - Personal assistive services at work
 - Is this the future for private employers?

Impairment - Self Diagnosis Insufficient

- Employee alleged respiratory issues caused by work environment and was placed on leave
- Employer conducted assessments of air quality and determined no abnormal levels
- Employee terminated - could not return to work or provide medical documentation demonstrating impairment based on work environment
- Court Held: employee’s burden to demonstrate she is disabled - lay opinion not a substitute for medical evidence

Jennings v. AAON, Inc.

Major Life Activity of Working

- Substantially limited in the ability to perform a class of jobs, or broad range of jobs in various classes as compared to most people having comparable training, skills, and abilities
- Consider limits on the nature of work or job-related requirements

Inability to Perform a Specific Job

- Juvenile Detention Center employee injured in riot requested no direct contact with detainees due to anxiety
- Employer offered training courses but employee became anxious and fainted during course
- Court: anxiety disorder did not limit working in “any other line of occupation” that did not involve interacting with children
- Exposure to public (including children) was not limiting because employee worked in retail during leave without issue

Carothers v. County of Cook, Ill.

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