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The ADA Is Not a Medical Leave Entitlement, Seventh Circuit Declares

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By Carol A. Poplawski



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A frequently utilized type of leave is medical leave needed for an employee's own medical condition taken under the Family and Medical Leave Act (FMLA). All too often, an employee goes out on FMLA leave, exhausts his or her FMLA leave entitlement, and requires more time off. The federal Americans with Disabilities Act (ADA) requires employers to reasonably accommodate a qualified individual with a disability, and more time off may be a form of reasonable accommodation. But how much more time off is reasonable, and isn't an employer justified in expecting its employees to actually show up for work?

The Seventh Circuit Court of Appeals recently answered those questions in *Severson v. Heartland Woodcraft, Inc.*, No. 15-3754 (September 20, 2017). In that case, Raymond Severson worked in a physically demanding job as a fabricator. He took 12 weeks of FMLA leave to deal with back pain, and on his last day of leave, he had back surgery requiring two to three more months of time off. Severson asked his employer to continue his medical leave, but the company denied his request and terminated his employment, inviting him to reapply when he was medically cleared for work. A few months later, Severson got that clearance but never contacted the company. Instead, he sued the company for disability discrimination.

In a decision that will be music to the ears of employers, the court found no discrimination. In no uncertain terms, the court held, the "ADA is an antidiscrimination statute, not a medical-leave entitlement." It further held that the term "reasonable accommodation" is expressly limited to those measures that enable the employee to work, and an employee who needs long-term medical leave cannot work and thus is not a qualified individual with a disability under the ADA. Therefore, concluded the court, a multi-month leave of absence is beyond the scope of a reasonable accommodation.

This decision provides a breath of fresh air in an area that often paralyzes many employers when managing employee leave situations. Even so, employers may want to proceed with caution before following in the footsteps of this employer because the federal Equal Employment Opportunity Commission (EEOC) opposes the position taken by the court. Claims of ADA disability discrimination have to go through the EEOC first, and the EEOC is not expected to back down from its position that a long-term medical leave should qualify as a reasonable accommodation when the leave is of a definite, time-limited duration; is requested in advance; and is likely to enable the employee to perform essential job functions upon return. Conducting a case-by-case analysis and engaging in the interactive process to discuss the parameters and expectations of any medical leave are still the best approaches in evaluating an employee's medical leave request.

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