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FLORIDA
EMPLOYMENT LAW LETTER

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DISABILITY DISCRIMINATION

Balancing attendance requirements and accommodation obligations

by Andy Rodman
Stearns Weaver Miller Weissler Alhadeff & Sitterson, P.A.

Determining the "outer limits" of your obligation to accommodate an employee's disability is rarely an easy task, particularly when the requested accommodation involves schedule modifications or time off. In a recent case, a Tampa federal court was tasked with assessing Tampa General Hospital's (TGH) obligation to permit Daniel Mecca, a specialized nurse, to come and go as he pleased as a reasonable accommodation for his disability.

Mecca held a specialized position

Mecca worked as a peripherally inserted central catheter (PICC) nurse for TGH for approximately six years. His primary duty was inserting catheters that were threaded through a vein in a patient's arm to his or her heart. His duties required adherence to proper procedures and sterilization techniques.

Mecca sought time off work for alleged panic attacks and anxiety. His symptoms included nervousness, anxiety, incontinence, and sleeplessness. He took Family and Medical Leave Act (FMLA) leave both intermittently and for consecutive weeks on numerous occasions. Also, TGH changed his schedule upon his request.

But he left work without performing his duties

In May 2010, Mecca returned to work after several weeks of FMLA leave. He presented TGH with a doctor's note stating he could work three days per week for eight to 12 hours per day. However, on his first day back, he did not respond to requests for patient "consults" (requests to assess patients and insert PICC lines). He left work before the end of his shift without offering an explanation for why he did not respond to the consult requests.

Upon learning of Mecca's conduct, his supervisor told him not to report to work until he heard from TGH. The hospital's HR department told Mecca he would be subject to discipline, including termination, for failing to respond to consult requests. Mecca resigned.

Mecca sued TGH under the Americans with Disabilities Act (ADA) and the Florida Civil Rights Act (FLCRA), alleging the hospital failed to accommodate his anxiety-related disability. In response, TGH argued that Mecca was not a "qualified individual" under the ADA because he could not perform the essential functions of his position (which the hospital claimed included regular attendance) and that his request for intermittent and indefinite leave was unreasonable.

Law Offices of Tom Harper, Stearns Weaver Miller, P.A., and Sniffen & Spellman, P.A., are members of the *Employers Counsel Network*

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Regular attendance may be an essential function

In analyzing TGH's arguments, the court explained that "essential functions" are the "fundamental . . . duties of a position." The court noted, "Daily attendance may be an essential function of a position, but it is not always an essential function." To determine whether a function is essential, courts ask:

(1) Does the position exist to perform the function?

(2) Are a limited number of employees available to perform the function?

(3) Is the function so specialized that the incumbent was hired because of his expertise or ability to perform the function?

The court found that regular attendance was an essential function of Mecca's PICC nurse position. Therefore, he had to demonstrate that a reasonable accommodation would have allowed him to attend work regularly. The only accommodation he identified, however, was his request to go home or miss work when he experienced flare-ups of depression or anxiety. The court held that Mecca's requested accommodation was not reasonable given the nature of his job. While a request for a part-time or modified work schedule may be reasonable under certain circumstances, there is a countervailing principle that "an employer is not required to reallocate . . . duties to change the functions of a job."

Indefinite leave is not a reasonable accommodation

The court also held that indefinite leave is not a reasonable accommodation. Mecca could not provide TGH with an estimate on when or if his condition would improve. In fact, TGH granted his leave requests on many occasions, and "leave [did] not improve [his] ability to have regular attendance, nor was there any indication that it would do so at any point in the near future."

In short, the court concluded, "A request to arrive at work at any time, without reprimand, is not a reasonable accommodation because it would change the essential functions of a job that requires punctual attendance." Because Mecca could not identify a reasonable accommodation that would have allowed him to meet the attendance requirements of his position, he was not a "qualified person" with a disability under the ADA. Therefore, the court dismissed his ADA and FLCRA reasonable accommodation claims. *Daniel Mecca v. Florida Health Services Center, Inc.,* Case No. 8:12-cv-02561.

Takeaways

Assessing your obligations to accommodate an employee's disability can be tricky. Frequently, the analysis turns on identifying the employee's essential duties. Many employers believe regular attendance is essential for *every* position, but that is not the case as far as the law is concerned.

Job descriptions don't provide the final say on employees' essential duties, but employers that believe regular attendance is required for a particular position should make sure the job description lists regular attendance as an essential duty. Doing so may help you defend against reasonable accommodation claims.

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EMPLOYEE BENEFITS

Departments issue final mental health parity regulations

In November 2013, the U.S. Department of Labor (DOL), the Department of Health and Human Services (HHS), and the Treasury Department released final mental health parity regulations that implement the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA). The MHPAEA applies to most employers with more than 50 employees and is designed to provide mental health parity by making sure mental health and/or substance use disorder benefits offered by health plans are equivalent to the medical/surgical benefits the plans offer.

Congress passed the MHPAEA in October 2008, and in February 2010, the three departments jointly issued interim final regulations to aid employers and group health insurers in implementing its requirements. The new final regulations aren't a whole lot different from the initial regulations and mainly provide new clarifications on various issues.

Classification of benefits

The main goal of the MHPAEA is to achieve parity regarding a plan's financial requirements and treatment limitations. Financial requirements include copayments, deductibles, coinsurance, and out-of-pocket expenses. Treatment limitations include limits on treatment frequency (e.g., one therapy session per week), number of visits (e.g., 35 visits per year to a mental health professional), days of coverage (e.g., 30-day hospital stays), days in a waiting period, and other similar limits on the scope or duration of treatment.

The interim final regulations made clear that parity analysis must be conducted on a classification-by-classification basis and divided benefits into the following six classifications:

- Inpatient, in-network;
- Inpatient, out-of-network;
- Outpatient, in-network;
- Outpatient, out-of-network;

- Emergency care; and
- Prescription drugs.

The new final regulations retain those six classifications, but they do allow plans and issuers to divide benefits furnished on an outpatient basis into two subclassifications:

- Office visits (e.g., physician visits); and
- All other outpatient items and services (e.g., outpatient surgery, facility charges for day treatment centers, laboratory charges, and other medical items).

However, the regulations don't allow any other subclassifications, including, for example, the separate classification of generalists and specialists.

The final regulations also provide that if a plan (or health insurance coverage) provides in-network benefits through multiple tiers of in-network providers, the plan may divide those benefits into subclassifications that reflect the network tiers. However, such tiering must be based on reasonable factors and without regard to whether a provider is a mental health or substance use disorder provider or a medical/surgical provider.

Other clarifications

The mental health parity final regulations also provide other clarifications. For example, they:

- Make minor technical changes to the meaning of the terms "medical/surgical benefits," "mental health benefits," and "substance use disorder benefits";
- Clarify that a plan or issuer isn't required to perform the parity analysis each plan year unless there is a change in plan benefit design, cost-sharing structure, or utilization that would affect a financial

ASK ANDY

Can we terminate without using progressive discipline?

by Andy Rodman
Stearns Weaver Miller Weissler
Alhadeff & Sitterson, P.A.

Q *A senior manager in our company has recommended terminating her direct report for excessive tardiness. Our employee handbook contains a progressive discipline policy, but the employee has never been warned about anything. I told the manager we can't terminate the employee without following the progressive discipline process, but I received significant "push back" from the manager. Who is right?*

A Most companies maintain a progressive discipline policy that gives employees "fair warning" and a few chances to improve before facing termination. However, no federal or state law requires employers to maintain progressive discipline policies or follow progressive discipline policies that are in place. Florida is an "at-will" state, meaning that absent any restrictions in a contract or collective bargaining agreement, employees can be terminated for any reason (as long as it's legal) without being given "fair warning" or an opportunity to improve. In that respect, your manager is correct in stating that a progressive discipline policy doesn't preclude terminating the employee for excessive tardiness, even if she has never been warned.

That said, the position you advocate—following the progressive discipline policy—certainly is the more conservative (and perhaps more prudent) course of action. For one thing, following a progressive discipline policy helps maintain consistency throughout the workforce over an extended period of time. Of course, consistency in issuing discipline is vital in defending against discrimination and retaliation claims. Failing to follow your progressive discipline policy may help an employee establish that the challenged employment action (e.g., termination) was a pretext (or cover-up) for unlawful discrimination or retaliation.

Also, a commonly held belief is that juries care about only one thing—fairness. If you are able to prove that you gave the employee "fair warning" and a few chances to improve before terminating her for excessive tardiness, you may increase the likelihood of success at trial.

In short, following your progressive discipline policy is the best (and perhaps easiest) way to ensure consistency. Some circumstances (e.g., workplace violence or theft) may call for immediate termination without resorting to progressive discipline. Just make sure your policy is drafted to provide you with the flexibility and discretion to skip steps in the disciplinary process and jump to immediate termination when appropriate.

If you have a question or issue that you would like Andy to address, e-mail arodman@stearnsweaver.com. Your identity will not be disclosed in any responses. This column is not intended to provide legal advice. Answers to personnel-related inquiries are highly fact-dependent and often vary state by state, so you should consult with employment law counsel before making personnel decisions. ✤

requirement or treatment limitation within a classification or subclassification;

- Remove a specific exception for "recognized clinically appropriate standards of care" regarding nonquantitative treatment limitations (NQTLs);
- Add two additional examples of NQTLs—(1) network tier design and (2) restrictions based on geographic location, facility type, provider specialty, and other criteria that limit the scope or duration of benefits for services provided under the plan or coverage;
- Add a new section that addresses claiming an increased cost exemption under the MHPAEA; and
- Add more examples throughout the regulations to help plans and issuers understand the provisions.

Effective dates and FAQs

The mental health parity final regulations became effective January 13, 2014, and they apply to group health plans and health insurance issuers for plan years beginning on or after July 1, 2014. Until then, plans and issuers must continue to comply with the interim final regulations.

Along with the new regulations, HHS, the DOL, and the Treasury published another set of mental health parity FAQs, which are designed to help stakeholders understand the law. They can be found online at www.dol.gov/ebsa/faqs/faq-aca17.html. ✤

WAGE AND HOUR LAW

Donning and doffing protective gear not compensable under the FLSA

by Robert J. Sniffen and Jeff Slanker
Sniffen & Spellman, P.A.

In a landmark case, the U.S. Supreme Court recently held that the time union employees spend donning and doffing protective gear is not necessarily compensable. The Supreme Court's decision in Sandifer v. United States Steel Corporation cleared up confusion on the issue and offers insight on how nonunion employers can assess whether they are paying their employees properly.

What is donning and doffing?

"Donning" means putting on protective gear, uniforms, or other clothing before a shift starts, and "doffing" means taking off gear or clothing after a shift concludes. The terms have generated much controversy because employees and employers have disputed whether employers must pay for time spent donning and doffing uniforms and protective gear.

The Fair Labor Standards Act (FLSA) is a federal law that mandates minimum wage, overtime, and other labor standards for nearly every employer and all workers in the country. Generally, when an employee is working or performing duties that are integral to his job, the time is compensable. Short breaks, fire drills, and working lunches are generally compensable. However, under some circumstances (e.g., absences due to illness, vacation, or voluntary training), time may not be compensable.

Nonunion employees must be compensated for time spent donning and doffing. However, the FLSA has an exception that allows unionized employers and employees to negotiate collective bargaining agreement (CBA) provisions that state that time spent changing clothes is not compensable.

Facts

In 2007, current and former employees of U.S. Steel filed a class action against the company alleging they were entitled to overtime for the time they spent putting on and taking off protective equipment. The gear included flame-retardant jackets, safety glasses, earplugs, and respirators. The workers were unionized, and their employment with U.S. Steel was governed by a CBA. Under the CBA, U.S. Steel did not compensate employees for the time they spent putting on and taking off the gear.

The workers claimed the gear was protective equipment, not "clothing." Therefore, they were owed compensation for the time they spent donning and doffing the equipment because U.S. Steel was not permitted to include a CBA provision that made the time noncompensable. The employer argued that any wearable item is "clothing" and that it did not have to pay employees for donning and doffing the gear under the terms of the CBA.

Lower courts' rulings

The trial court granted summary judgment (pretrial dismissal) in favor of U.S. Steel, finding that the CBA made the donning and doffing time noncompensable and that U.S. Steel did not have to pay employees for the time. The trial court also held that the time was not compensable under the *de minimis* doctrine, which provides that if compensable activities form such a small percentage of the time worked that it is difficult to measure the time spent performing the activities, they are not compensable.

The U.S. 7th Circuit Court of Appeals affirmed the trial court's dismissal of the workers' claim. The workers appealed to the Supreme Court, which agreed to hear the case.

Supreme Court's ruling

The Supreme Court ruled that U.S. Steel did not have to pay employees for the time they spent donning

and doffing safety gear before and after their shifts. The Court noted that under the FLSA, unionized employers and employees can negotiate whether time spent changing clothes is compensable. The Court held that "changing clothes" is not sufficiently different from putting on protective gear. Therefore, the time the workers spent putting on protective gear was not compensable.

The Supreme Court looked at the plain meaning of the term "clothing," the legislative history of the FLSA, and its own precedent to conclude that most of the protective gear U.S. Steel required workers to wear was the same as clothing. Because the Court equated the gear with clothing and the CBA provided that time spent changing clothes was not compensable, the time the employees spent donning and doffing the gear was not compensable. The Court noted that pants, hardhats, and leggings are common articles of dress.

However, the Supreme Court noted that some of the items the workers were required to wear (e.g., safety glasses, ear plugs, and respirators) were protective gear, not clothing. Despite that, the Court stated that separating the time employees spend putting on protective gear rather than clothing is not workable and is not the role of the courts. Instead, the Court held that when a worker spends the majority of his time donning and doffing clothing rather than protective gear, the time is not compensable if a CBA states it is not.

Takeaways for Florida employers

Obviously, the Supreme Court's ruling affects unionized workplaces greatly. It provides guidance on when donning and doffing clothing and protective gear can be excluded from compensable activities under a CBA. The ruling clarifies this area of the law for employers in a number of industries, including manufacturing and food service.

The ruling has practical guidance for employers without CBAs as well. The Supreme Court noted that employers may not arbitrarily fail to count compensable time, no matter how small the amount of time is. The Supreme Court rejected the lower courts' reliance on the *de minimis* standard to determine whether the small amounts of time spent donning and doffing protective gear were compensable. For employers without CBAs, that means taking special care to examine potentially compensable activities and reevaluating whether employees are entitled to compensation for those activities.

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FMLA LEAVE

How to curb intermittent FMLA leave abuse

by Lisa Berg
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One of employers' most common complaints about administering Family and Medical Leave Act (FMLA) leave is employees' tendency to abuse intermittent leave. When combatting this type of fraud, employers must navigate tricky U.S. Department of Labor (DOL) regulations as well as federal court rulings that limit the type of information that can be obtained from employees. While no perfect solution exists, employers can take steps to prevent abuse and manage intermittent leave. This article provides guidance on what you can do to minimize the impact of intermittent FMLA leave on your business.

Strategies for curbing abuse

The FMLA allows eligible employees to take 12 weeks of job-protected leave for family and medical reasons, including a family member's serious health condition, and up to 26 weeks for military caregiver leave. Leave can be taken in one block or intermittently (i.e., in separate blocks because of a single qualifying reason). Employees requesting intermittent FMLA leave must provide you with at least 30 days' notice when the need for leave is foreseeable. If the need for leave is unforeseeable, employees must notify you "as soon as practicable." Fortunately, you can take the following steps to help prevent intermittent FMLA leave abuse:

(1) Require employees to provide medical certification to establish that intermittent leave is necessary. Medical certification is the best tool for curbing abuse because it forces an employee to substantiate her claim that she or a family member has a serious health condition.

(2) Examine medical certifications closely to ensure they have been properly and fully completed. When a certification has missing entries or is ambiguous, you may require the employee to provide complete and sufficient information. Your request must be in writing, specify why the certification is incomplete or insufficient, and provide the employee seven days to provide the additional information.

(3) Require employees to work with you to schedule planned medical treatments during nonworking hours. The FMLA's regulations allow you to require employees to schedule planned medical treatments in a way that least disrupts your operations.

(4) Assign employees who are taking intermittent leave to alternative positions to cause less disruption. If

an employee's continued intermittent absences interfere with your operations, he may be temporarily transferred to an alternative position until his FMLA leave is concluded. However, the transfer may not result in a loss of pay or benefits or be used to discourage employees from taking leave.

(5) Require employees to provide recertification frequently. You may request recertification (1) no more than every 30 days in connection with an absence or (2) when the minimum duration from a prior certification expires if the minimum duration exceeds 30 days. You may request recertification more frequently if an employee asks for an extension of leave, circumstances change (e.g., an employee's absences aren't consistent with his prognosis), or you doubt the legitimacy of the employee's medical status (e.g., Monday or Friday absences). Recertification must be done at the employee's expense, which is a strong deterrent to fraudulent claims.

(6) Ask for a new medical certification for each 12-month period.

(7) Adopt a policy that requires accrued paid leave to run concurrently with unpaid FMLA leave. Employees are less likely to abuse intermittent FMLA leave if they are required to use up their vacation time each time they take leave.

(8) Establish and enforce reasonable attendance and call-in procedures. The FMLA allows employers to enforce established no-call, no-show policies for employees on FMLA leave. Generally, you can require employees who request unforeseen intermittent leave to provide the appropriate notice under an established call-in procedure. The key to avoiding abuse is consistent policy enforcement, which includes disciplining employees who fail to provide proper notice.

(9) Be on alert for obvious abuse patterns, such as absences on Mondays and Fridays. According to the FMLA's regulations, you may ask for recertification if you receive "information that casts doubt on the stated reason for the leave." A pattern of absences on Mondays or Fridays is enough to cast doubt, and you can ask an employee's healthcare provider to address the issue.

(10) Require second and third opinions. Many employees ask friends in the medical profession to provide certification to support intermittent leave. If you have a reason to doubt the validity of an initial certification, you may require a second opinion from a healthcare provider of your choice. However, the provider cannot be employed by your company on a regular basis. If the first and second opinions differ, you may require an employee to see a third healthcare provider at your expense. The third opinion will be binding, and you cannot seek second or third opinions for recertification.

The key to avoiding abuse is consistent policy enforcement.

(11) Count missed scheduled overtime against an employee's FMLA leave entitlement. If an employee is scheduled to work 48 hours in a workweek but works only 40 hours because he took intermittent leave, then eight hours can be counted against his FMLA entitlement. Voluntary overtime hours an employee misses because of a serious health condition cannot be counted against his FMLA leave entitlement.

(12) Adopt a written policy that prohibits employees from working second jobs while on any type of leave, including FMLA leave. This may prevent employees from taking intermittent or reduced-schedule leave to make extra money on the side.

(13) Hire a private investigator to conduct surveillance on an employee if you suspect fraud. Employees who engage in fraud while on FMLA leave are not immune from disciplinary action or termination. A policy that prohibits misrepresentations and misuse of FMLA leave will help support termination decisions.

Bottom line

While most employees use FMLA leave legitimately, it is important for employers to have an effective anti-fraud system in place to deal with employees who abuse the system. These strategies will hopefully help prevent intermittent FMLA leave abuse.

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AMERICANS WITH DISABILITIES ACT

Oh, thank heaven! 7-Eleven gets quick exit from public access suit

by Tom Harper
Law Offices of Tom Harper

In recent years, a number of individuals and groups have traveled to Florida and filed hundreds of lawsuits against businesses that are open to the public. The lawsuits claim that businesses violate the Americans with Disabilities Act (ADA) by having structural barriers that deny access to facilities. About a year ago, several individuals went down a two-mile stretch of a busy four-lane street in Jacksonville and entered businesses to find ADA violations. More than a dozen lawsuits were filed against businesses on that street. The suits were based on the ADA's public accommodation provisions.

The individuals and their attorneys systematically seek out businesses with the intent of finding and pointing out ADA violations. Often without a letter or other notice, the individuals file federal lawsuits claiming businesses failed to provide reasonable access to individuals with disabilities. Businesses may eventually beat the claims by remedying any violations. However, they may still be on the hook for the individuals' attorneys' fees and costs as well as the costs of hiring their own lawyers. Recently, a 7-Eleven store on Pines Boulevard in Broward County was sued. The store's quick response ended the litigation.

The store never knew

Joe Houston, a customer, visited the 7-Eleven store and claimed several ADA accessibility violations. 7-Eleven first learned of Houston's complaint of ADA violations at the store when he filed his lawsuit. As soon as the suit was received, John Falso, 7-Eleven's senior area facilities manager, retained an ADA accessibility consultant to review the store and Houston's claims.

Although the store already had designated handicapped parking and other accessibility features, the consultant recommended upgrades to bring the store into full compliance with the ADA. 7-Eleven hired a contractor and made all the changes suggested by the consultant. The upgrades included repaving and restriping the parking lot, enlarging the existing handicapped parking spaces and access isle, making the restroom larger, and relocating the store's back storage room. 7-Eleven spent over $30,000 making the changes.

7-Eleven told the court it had a written policy of providing access to persons with disabilities. In addition, the company trained employees on its nondiscrimination policies and even hired a private firm to inspect its stores twice a year.

The ADA states that "discrimination" includes failing to remove architectural barriers when doing so is readily achievable. Houston suffered no actual injury, but he sued 7-Eleven because the structural violations could have been considered discriminatory against disabled individuals.

AGENCY ACTION

More than 500,000 employers using E-Verify. U.S. Citizenship and Immigration Services (USCIS) announced in January that more than 500,000 companies are now using E-Verify, the online service that allows employers to check their new employees' eligibility to work. The service was established in 1996. Annual enrollments increased tenfold during the program's first 16 years, from 11,474 in fiscal year (FY) 1996 to 111,671 in FY 2012. During FY 2013, employers used E-Verify more than 25 million times, according to the USCIS. The agency has made changes over the years to address complaints, including forging agreements with select states' departments of motor vehicles to ensure the authenticity of driver's licenses that employees use as identity documents, the introduction of Self Check, which allows workers to look up their own employment eligibility status and correct their records before seeking employment, and a program to fight identity fraud by locking Social Security numbers suspected of being misused.

Four nations added to H-2A, H-2B visa programs. The USCIS has announced that the Department of Homeland Security, in consultation with the State Department, has added Austria, Italy, Panama, and Thailand to the list of countries whose nationals are eligible to participate in the H-2A and H-2B visa programs for the coming year. Sixty-three countries are now on the list. The H-2A and H-2B programs allow U.S. employers to bring foreign nationals to the United States to fill temporary agricultural and nonagricultural jobs, respectively. Generally, the USCIS approves only H-2A an H-2B petitions for nationals of countries the secretary of homeland security has designated as eligible to participate in the programs.

NLRB issues complaint against Wal-Mart. The National Labor Relations Board (NLRB) Office of General Counsel announced in January that it had issued a consolidated complaint against Wal-Mart alleging that the company violated the rights of employees as a result of activities surrounding employee protests in 13 states. The agency informed Wal-Mart in November that complaints were authorized but withheld issuing the complaints to allow time for settlement discussions. The NLRB announcement said discussions weren't successful. More than 60 Wal-Mart supervisors and one corporate officer are named in the complaint. The complaint involves more than 60 employees, 19 of whom were discharged after participating in activities protected by the National Labor Relations Act (NLRA), which guarantees the right of private-sector employees to act together to try to improve wages and working conditions with or without a union. ✤

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7-Eleven's response

7-Eleven responded to Houston's claims by remedying the alleged violations within six months. The court found that 7-Eleven's actions were "motivated by a genuine desire to conscientiously comply with [the] ADA's architectural requirements, and not merely a desire to avoid liability." The court noted:

> These are the actions of an entity that is highly motivated and genuinely interested in complying with the full breadth of the ADA. The fact that 7-Eleven pays an outside company to conduct biannual inspections further demonstrates the genuineness of 7-Eleven's commitment to comply with the ADA because this commitment is ongoing, regardless of whether any lawsuit is pending.

The court reviewed the situation to see whether 7-Eleven's actions made Houston's claims moot since the barriers were removed. There were no allegations that the company committed any other discriminatory acts against disabled persons. 7-Eleven's quick actions and good policies showed a sincere desire to comply with the ADA in the future.

What's more, it was impossible to believe 7-Eleven would reinstall the old barriers in the store. The company spent $30,000 on engineering and construction, and it was crazy to think it would rip out the improvements. As a result, the court no longer had jurisdiction and closed the case. *Joe Houston v. 7-Eleven, Inc.*, Case No. 13-cv-60004-civ-SCOLA (January 31, 2014).

A real threat

These cases continue to be filed all over Florida. Hotels, restaurants, and virtually all retail businesses that are open to the public are potential targets. (Yes, that includes law offices!) Plaintiffs may not be entitled to damages in this type of lawsuit, but they may recover reasonable attorneys' fees. Thus, businesses may be on the hook for the costs of remedying the violations plus the plaintiffs' attorneys' fees.

If a lawsuit is filed against your business, you must hire a lawyer to defend you. Costs will add up quickly. This case shows one strategy to get litigation ended quickly. It remains to be seen whether Houston will ask the court for his attorneys' fees. However, the court's decision to end the case will likely make an attempt for attorneys' fees difficult.

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