



SEVENTH CIRCUIT RULES ADA DOES NOT REQUIRE EXTENDED LEAVE AS A POST-FMLA LEAVE ACCOMMODATION

October 5, 2017 | Alert

The United States Court of Appeals for the Seventh Circuit recently ruled, in the matter of *Severson v. Heartland Woodcraft*, No. 15-7754 (7th Cir. Sept. 20, 2017), that an employer need not provide an employee months of additional leave time as a reasonable accommodation under the Americans with Disabilities Act ("ADA") after the employee's leave under the Family and Medical Leave Act ("FMLA") expires. The Court's ruling is a victory for employers, and rejects the Equal Employment Opportunity Commission's ("EEOC") guidance interpretation on this issue.

In *Severson*, an employee took FMLA leave due to aggravation of his pre-existing condition of back myelopathy. Toward the end of his 12-week leave, after his condition had not improved, the employee elected to undergo surgery, which would require at least two months recovery time. Accordingly, he requested an extension of his employee leave. His employer declined to provide the extension, terminated his employment upon completion of his FMLA leave, and invited him to re-apply when he recovered from surgery. Following being cleared to return to work, the employee did not re-apply, but rather sued the company, alleging that it discriminated against him in violation of the ADA by failing to accommodate his physical disability.

Primarily at issue was whether a long-term leave of absence is a reasonable accommodation under the ADA. In affirming summary judgment for the employer, the Court ruled that the ADA was an "anti-discrimination statute, not a medical leave statute." It found that the term "reasonable accommodation" applies to an employee who is able to perform the "essential functions" of the job, not to long-term medical leave. In so ruling, the Court declined to follow the EEOC's interpretation that employees are entitled to extended time off under the ADA. The Court noted that an "open-ended extension of the FMLA" was an "untenable interpretation of the term 'reasonable accommodation.'" Instead, the Court found that,

RELATED PROFESSIONALS

Alexander D. Marks

RELATED PRACTICE & INDUSTRIES

Labor and Employment



at most, a "brief period of leave to deal with a medical condition could be a reasonable accommodation in some circumstances."

The decision is an important one for employers as it provides much needed guidance and certainty to a gray area of law that has long frustrated and perplexed businesses. For more information, please contact Alex Marks at 312/840-7022 or amarks@burkelaw.com.