



The Ever-Broadening Definition of "Disability" Under the ADA Remains a Source of Anxiety for Employers

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A recent decision of the U.S. Court of Appeals for the Fourth Circuit (the federal appeals court that covers Virginia, North Carolina, West Virginia, Maryland, and South Carolina) reconfirms what many employers have long suspected -- almost all physical and mental impairments will meet the definition of "disability" under the Americans with Disabilities Act ("ADA"), as the law was amended in 2008. Under the ever-broadening definition of "disability," employers may now be required to provide reasonable accommodations to a larger number of employees.

In *Jacobs v. N.C. Administrative Office of the Courts*, 780 F.3d 562 (2015), Christina Jacobs was a former deputy courthouse clerk for N.C. Administrative Office of the Courts ("AOC"). Jacobs suffered with social anxiety disorder when she was 18 years old (long before she accepted employment with AOC). Through her employment as deputy courthouse clerk for AOC, Jacobs was required to work several times each week at the front counter of the clerk's office, and in so doing, was required to interact with the public. Jacobs informed AOC of her anxiety when interacting with the public and requested an accommodation that would excuse her from performing this essential duty of her position. AOC denied the request. Soon thereafter, Jacobs was terminated. In her lawsuit, Jacobs claimed that she was denied a reasonable accommodation and terminated because of her disability -- social anxiety disorder -- in violation of the ADA. The federal district court awarded summary judgment to the AOC and dismissed the case because it concluded that social anxiety disorder did not render Jacobs "disabled" (i.e. substantially limited from performing one or more major life activities) under the ADA.

In reversing the federal district court's decision, the Court of Appeals determined that the lower court had fundamentally misread the 2008 Amendments to the ADA (the "Amendments"), which significantly broadened the definition of "disability" to make it easier for individuals to obtain protection under the ADA. Specifically, the Court cited the Amendments and associated regulations and observed that "the primary object of attention in cases brought under the ADA should be whether covered entities had complied with their obligations [under the ADA] and whether discrimination has occurred, **not whether [an] individual meets the definition of disability.**" (emphasis added). The Court further found that "**the question of whether an individual's impairment is a disability under the ADA should not demand extensive**" analysis." (emphasis added). Instead, an impairment is a qualifying disability within the meaning of the ADA if it substantially limits an individual's ability to perform a major life activity as compared to most people in the general population. The Court found that Jacobs' social anxiety disorder met this low threshold because it substantially limited her ability to interact with others as compared to most people in the general population, even though it did not prevent her from interacting with people on a daily basis, socializing with her co-workers outside of work, or participating in social

media.

The Court's decision in *Jacobs* confirms that courts and the EEOC will perform only a cursory analysis to determine if an individual's impairment constitutes a disability under the ADA. As such, *Jacobs* should serve as a reminder to employers that, when informed by an employee that he or she has a physical or mental impairment and requires an accommodation, the employer should not question if the impairment rises to the level of a disability under the ADA. Instead, the employer should begin to engage in a good faith, interactive process with the employee to determine if the employer can provide a reasonable accommodation to the employee so that he or she can perform the essential duties of his or her position.

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