ADA Essay, Research Paper

The Americans with Disabilities Act (ADA) of 1990

The purpose of the Americans with Disabilities Act (ADA) is to provide equal access and opportunity for the more than forty-three million disabled Americans living in the United States. On July 26, 1990, President Bush signed into law the ADA. The world?s first comprehensive civil rights law for people with disabilities, this event was a historical benchmark and a milestone in America?s commitment to full and equal opportunity for all citizens. The President?s directive on that day was, ?Let the shameful walls of exclusion finally come tumbling down? ( n.a. no author. gopher://trace.wisc.edu/00/ftp/PUB/TEXT/ADA\_INFO/HANDBOOK/PREAMBLE

.TXT). The ADA entitles disabled citizens to legal protection, equal opportunity, and access to all jobs.

Who does the ADA protect? It protects any individual with a physical or mental impairment that substantially limits one or more of the major life activities of a person, or a record of this impairment, or being regarded as having such impairment. The following are examples of individuals who qualify under the ADA: those who are blind, in a wheel chair, facially disfigured; however, the less apparent disabilities are hearing loss, mental illness, and Aids. In addition, successfully rehabilitated drug users or alcoholics are also protected (n.a. no author. gopher://trace.wisc.edu/00/ftp/PUB/TEXT/ADA\_INFO/HANDBOOK/FREG1.TXT.).

Since 1990, there has been a sweeping forbiddance of discrimination against qualified disabled individuals in hiring, promotions, termination, job application procedures, compensation, and job training, and other terms of employment. A disabled

individual is qualified if he or she can perform the essential functions of the job with or without reasonable accommodation. An employer who refuses to make a reasonable accommodation, and thereby denies an employment opportunity to a qualified but disabled individual, is guilty of unlawful discrimination under the ADA (Wells 70-80).

What exactly constitutes a reasonable accommodation is unclear. However, the ADA indicates that the removal or architectural barriers and other changes to make a workplace readily accessible fall under accommodation for the disabled. In addition, the following list also falls under reasonable accommodations:

• restructuring jobs

• offering part-time or modified work schedules,

• reassignment to a vacant position

• purchasing of special equipment or job aids

• making appropriate adjustments or modifications to examinations and test, training materials, and policies

• providing a qualified reader or interpreter

Other similar accommodations for individuals with disabilities may also be required. However, the law does not require an accommodation that would cause an undue hardship on the employer or cause the environment to be unsafe (n.a. no author. gopher://trace.wisc.edu/00/ftp/PUB/TEXT/ADA\_INFO/HANDBOOK/HACT.TXT).

What is defined as an undue hardship is also unclear, but it is defined as an action requiring significant difficulty or expense. There is not a dollar amount defined by the ADA. How the ADA determines if expense was an undue hardship is by evaluating the overall financial resources of the facility, number of employees, the effect on expenses and resources, and the overall impact of such an accommodation upon the operation of

the facility. As anyone can see, undue hardship is very vague and unclear. The judicial courts on a case by case basis can only define and determine it.

Since 1990, there have been thousands of ADA lawsuits filed by American citizens. Some of the lawsuits are obvious cases of discrimination that have resulted in favorable verdicts worth millions of dollars. On the other hand, there have been thousands of questionable lawsuits, which have also had favorable verdicts. These questionable

lawsuits have also cost employers millions of dollars. Most believe that the favorable verdicts awarded on frivolous lawsuits are due to the vagueness of the ADA.

One way that employers and managers can protect and educate themselves is by staying abreast of current ADA case studies. The following is an example of a good ADA lawsuit verdict. This case is one of obvious discrimination involving Chuck E. Cheese pizza chain. Recently, a jury in the disability discrimination case against Chuck E. Cheese pizza chain returned a verdict on damages, awarding a record $13 million dollars in compensatory and punitive damages to Donald Perkle. This verdict represents the largest monetary relief awarded by a jury in a case brought by the Equal Employment Opportunity Commission (EEOC) under the Americans with Disabilities Act (ADA). The jury found that Chuck E. Cheese violated the ADA by discriminating against Mr. Perkle when they fired him due to his disability: mental retardation. The lawsuit was based on a finding that a regional manager fired Donald Perkle from his job as a janitor after stating that Chuck E. Cheese did not hire “those kind of people.? The local Chuck E. Cheese manager and staff supported Mr. Perkle during his employment at the restaurant. In essence, after the regional manager fired him, the local manager, and

employees asked the company president and CEO to intervene and reverse the decision. However, they were met with silence. “The ADA requires companies to make hiring and firing decisions based on individual capabilities, not on myths, fears or stereotypes,” said

Chairwoman Castro. “It is outrageous that Chuck E. Cheese would permit a middle manager to fire an employee with a disability in the face of protests by co-workers and a first-line manager who vouched that Mr. Perkle could do the job. It is also outrageous

that Chuck E. Cheese would argue that this act was acceptable because they believed this human being could not feel the pain of this humiliation.”

“This jury’s decision reinforces the message that employers must provide persons with mental retardation equal opportunities to participate in the workforce within their individual capabilities,” said C. Gregory Stewart, General Counsel Designate of the EEOC. “The jury’s decision also reflects on the public’s understanding that persons with mental retardation are fully capable of being productive and contributing members of society.” EEOC Commissioner Paul Steven Miller stated: “Persons with mental retardation are among the most vulnerable individuals within the American workforce. Employers need to understand that the ADA protects these workers from arbitrary denials of jobs they can perform, and the EEOC will enforce these protections aggressively” (n.a. no author. http://www.eeoc.gov/press/11-06-99.html).

The next case study is one involving a questionable jury decision. In January 1999, a former truck driver for Ryder Systems, Inc., won a $ 5.5-million jury verdict after claiming, under the ADA, that Ryder unfairly removed him from his position after he suffered an epileptic seizure. Ryder stated that his health condition could be a safety

hazard. During the termination from his job at Ryder, another firm hired the driver; he had a seizure behind the wheel and crashed into a tree. Ryder is currently appealing this verdict (n.a. no author. http://www.eeoc.gov/press/11-06-99.html).

An additional way employers and managers can protect themselves is by having up-to-date job descriptions, which communicate the important and essential things to be done in a job, will help protect them. The development of a good job description

involves such things as systemically observing what is done on the job, receiving input from job incumbents, receiving input from job experts, and describing the essential functions of the job in a written format.

In summary, the ADA is not clear on exactly what the essential functions of a job are, what is considered a reasonable accommodation or considered an undue hardship. However, the extremely obvious qualifications will be accepted for example a truck driver may be disqualified if he or she does not have a current driver?s license or a physician may be required to have a medical license in order to qualify for a job in a hospital. However, all employers should beware that everyday new disabilities are presented to the EEOC. The most recent disability is called Internet addiction. The best advice for employers and managers is to stay abreast of recent case studies and when in doubt they should consult with a labor attorney. The purpose of the ADA is to protect the disabled but unfortunately there will always be those who take advantage of system. Therefore, employers and managers should make decisions involving the ADA with extreme caution.

Monsrud 6

Works Cited

Wells, Susan. ?ADA in Today?s Work Place.?

HR Magazine December 1999: 70-80

Americans with Disabilities Act. Home page.

gopher://trace.wisc.edu/00/ftp/PUB/TEXT/ADA\_INFO/HANDBOOK/HACT.

TXT

Americans with Disabilities Handbook

gopher://trace.wisc.edu/00/ftp/PUB/TEXT/ADA\_INFO/HANDBOOK/PREAMBLE..TXT

Americans with Disabilities Handbook

gopher://trace.wisc.edu/00/ftp/PUB/TEXT/ADA\_INFO/HANDBOOK/FREG1.TXT

Daniels, Reuben ADA Consultants. Home page. EEOC Release. 06 November 1999

http://www.eeoc.gov/press/11-06-99.html

30d