

## Sixth Circuit Holds Full-Time Presence At Work Not Essential Simply Because An Employer Says So

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On July 17, 2018, the U.S. Court of Appeals for the Sixth Circuit reminded employers that determining the essential functions of a position is a highly fact specific endeavor in which categorical rules do not apply. In *Hostettler v. College of Wooster*, Heidi Hostettler worked as a full-time HR Generalist. After giving birth to her child, Hostettler experienced severe postpartum depression and separation anxiety. As a result, Hostettler's physician determined it was medically necessary that she worked a reduced schedule and recommended that Hostettler return to work on a part-time basis for the "foreseeable future." After two months of working an accommodated schedule, Hostettler's employer terminated her employment stating that she was being discharged because she was "unable to return to her assigned position of HR Generalist in a full time capacity." Hostettler brought suit under the Americans with Disabilities Act (ADA), and the district court granted summary judgment in favor of the employer holding that Hostettler was not a qualified individual with a disability because full-time work was an essential function of Hostettler's position. The Sixth Circuit Court of Appeals reversed the lower court's decision. The Sixth Circuit first dismissed the employer's argument that Hostettler's separation anxiety and depression did not constitute a disability. The court went on to further hold that regular, in-person attendance, while an essential function of most jobs, is not unconditionally so. Because Hostettler presented evidence that her department was running smoothly, and she was able to satisfy all her core tasks while working her part-time schedule, the employer's own categorization of the position as full-time was not enough to preclude Hostettler's claims. This case is a great reminder to employers that the realities of the position will control over the words contained in a job description. Even though the employer in *Hostettler* classified her position as full-time, the court made it clear that merely stating that full-time employment is an essential function will not relieve an employer of its responsibilities under the ADA when the employer is unable to explain *why* full-time employment is necessary. After *Hostettler*, employers are reminded to take a look at job descriptions to ensure they reflect the realities of the position.

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