

EEOC Consent Decrees Highlight That Employers Must Prevent ADA Claims -- Or Pay The Consequences

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Public consent decrees that resolved several recent Equal Employment Opportunity Commission (EEOC) disability discrimination lawsuits are a stark reminder that clear policies and training can help employers to avoid such consequences. A common theme of the recently-settled EEOC lawsuits is that once the EEOC files a lawsuit it will demand a public settlement that includes substantial financial terms and non-monetary relief including posting of notices in the workplace and mandatory training. In [a case that the EEOC filed](#) against a paper manufacturing company in Michigan, the employer and the EEOC reached a public resolution announced Thursday that, in addition to a payment of \$187,500 includes mandatory training for plant managers and human resources staff on disability discrimination and reasonable accommodations under the Americans with Disabilities Act (ADA). The case involved a human resources manager who went on pre-authorized leave for heart bypass surgery but whose employment was terminated before the expiration of his leave. In [another Michigan case](#) that involved an employee with epilepsy, the EEOC and the employer reached an agreement to a consent decree earlier this month that calls for a payment of \$33,000 plus training for managers on non-discrimination and reasonable accommodations. According to the EEOC's summary of the facts in a press release touting the settlement, the employee suffered a seizure at work and remained on a leave of absence for several months even after he had provided the employer with clearance from his doctor to return to work. And in yet one more ADA lawsuit that the EEOC resolved in April (and we are only halfway through the month), the agency and a major bank agreed to a monetary resolution of \$30,000 plus non-monetary relief that includes using a dedicated team of accommodations specialists to engage in the interactive process for providing reasonable accommodations to deaf employees and training that specifically addresses the communication needs of deaf employees from an individualized perspective. The EEOC contended that the employer should have provided a sign language interpreter rather than using methods such as notes that were not understandable and therefore were ineffective for the particular employee. So what can we learn from these cases (aside from the fact that the EEOC most definitely has ADA cases on its radar)? First, ensure your non-discrimination and equal employment opportunity policies are up to date and that they include information on how an employee can seek a reasonable accommodation. Moreover, take a look at your leave of absence policies to ensure they provide flexibility to allow consideration of an extension of a leave of absence as a reasonable accommodation, rather than strict maximum cutoffs for use of leave. Second, training, training, training. A policy needs to be more than just the paper (or pixels) it is printed on. Human resources professionals, managers, and front-line supervisors should understand that an individualized assessment is part of the reasonable accommodation process and that reasonable accommodation discussions should be focused on each employees' specific needs rather than assumptions based on stereotypes or past practices. Third,

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encourage a culture where supervisors and managers feel encouraged and supported with assistance during the reasonable accommodation analysis so that situations can be resolved in the workplace before they lead to an EEOC charge or lawsuit.

