

## Severe Obesity May Be An ADA-Covered Disability, Court Rules

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A terminated employee sufficiently alleged that his employer unlawfully terminated his employment for “severe obesity” for his claims to move forward under the Americans with Disabilities Act, a federal judge has ruled. In *Whittaker v. America’s Car-Mart, Inc.*, No. 1:13CV108SNLJ (Apr. 24, 2014)), a judge for the U.S. District Court for the Eastern District of Missouri rejected the employer-defendant’s motion to dismiss, allowing the obesity-as-a-disability lawsuit to continue. In the defendant’s motion to dismiss the plaintiff’s complaint, it argued that obesity is not an actual disability under the ADA unless it relates to an underlying physiological disorder or condition. The court disagreed, noting that the defendant’s argument relied on old law.

In 2008, Congress passed the Americans with Disabilities Amendments Act (ADAAA), which rejected the “unduly restrictive approach” the Supreme Court had established for analyzing whether a plaintiff suffers from a disability for purposes of the ADA. The Court noted that Congress mandated in the ADAAA that the definition of disability be construed “in favor of broad coverage of individuals...to the maximum extent permitted” by the law. Following passage of the ADAAA, the EEOC omitted language from its Interpretive Guidance, which had previously stated that “except in rare circumstances, obesity is not considered a disabling impairment.” The Court cited a 2011 decision from the Eastern District of Louisiana, wherein that court stated that “severe obesity, which has been defined as body weight more than 100% over the norm, is clearly an impairment” and cited the EEOC Guidance.

Based on the ADAAA’s “substantial expansion” of the ADA, the Court determined that the defendant’s assertion that the plaintiff’s weight cannot be considered a disability “misplaced.” Employers, take note: this decision not only provides guidance with respect to a court’s consideration of obesity as a disability under the ADA, it also highlights the lowered barriers plaintiffs face post-ADAAA to sufficiently plead a disability

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