

Fourth Circuit: Temporary Impairment May Constitute Disability after Americans with Disabilities Act Amendments Act (ADAAA)

Article By:

Annie L. Eiden

The Court of Appeals for the Fourth Circuit recently handed down the first appellate decision interpreting the definition of “disability” under the **Americans with Disabilities Act Amendments Act of 2008 (ADAAA)**. In *Summers v. Altarum Institute, Corporation*, the Fourth Circuit concluded that a temporary impairment, if severe, can constitute a disability, thereby signaling the Court’s willingness to expand the scope of coverage and create a new class of disabled individuals under the ADAAA.

Summers worked as a senior analyst for Altarum, a **government contractor**. On October 17, 2011, Summers fell while exiting a commuter train on his way to work. He fractured his left leg and tore the meniscus tendon in his left knee. Additionally, Summers fractured his right ankle and ruptured the quadriceps-patellar tendon in his right leg. The injuries to his left leg required surgery and the insert of a metal plate, screws and bone. The injuries to his right leg required a second surgery.

Summers’ doctors prohibited him from putting any weight on his left leg for a period of six weeks, and estimated that he would not be able to walk normally for at least seven months. Summers alleged that without surgery, bed rest, pain medication and therapy, he “likely” would not have been able to walk for more than a year.

While he was still in the hospital, Summers contacted Altarum’s Human Resources Department and inquired about short-term disability benefits and working from home while he recovered. The Human Resources representative agreed to discuss accommodations, but suggested he take short-term disability and focus on recovering. Summers sent additional emails to his supervisors regarding a plan to return to work, including a graduated schedule. Altarum did not follow up on Summers’ requests about returning to work. Instead, it terminated his employment effective December 1, 2011.

Following his termination, Summers filed suit under the Americans with Disabilities Act (ADA) alleging that Altarum: (1) wrongfully terminated him due to his disability and (2) failed to accommodate his disability. Altarum moved to dismiss the complaint on the grounds that Summers had not alleged a disability under the ADA. The district court sided with Altarum on both claims. Relying on prior decisions, including the Supreme Court’s decision in *Toyota Motor Manufacturing, Kentucky, Inc. v. Williams*, the district court concluded that Summers had a temporary condition which did not qualify

as a disability under the ADA. The district court also dismissed Summers' failure to accommodate claim, reasoning that Summers never requested an accommodation.

Summers filed an appeal challenging the district court's dismissal of his wrongful termination claim. Significantly, the Fourth Circuit concluded that, following the ADAAA, temporary impairments, if sufficiently severe, may qualify as a covered disability. The Fourth Circuit relied heavily on the stated purpose of the ADAAA, which was to overturn *Toyota* and "reinstat[e] a broad scope of protection to be available under the ADA." The Fourth Circuit also gave deference to regulations of the United States Equal Employment Opportunity Commission (EEOC) which stated that the "effects of an impairment lasting or expected to last fewer than six months can be substantially limiting" for purposes of determining an actual disability. Applying this broadened definition, the Fourth Circuit held that Summers' injury, which left him unable to walk regularly for seven months, was sufficiently severe to qualify as a disability under the ADAAA.

The Fourth Circuit's decision in *Summers* is likely the start of a growing body of case law outlining the expanded definition of disability under the ADA following its amendment by the ADAAA. However, many questions remain unanswered. How severe does the temporary condition need to be? How temporary can it be? Can a severe condition of only a few days qualify? Further cases interpreting these issues will bring some clarity. In the meantime, employers should not presume that an individual is not disabled because his or her condition or injury is temporary in nature. Employers should advise supervisors and managers that injuries or conditions previously not thought to be disabilities may qualify. Rather than focusing on whether the individual will or will not meet the definition of a disability, employers should focus on engaging the employee in the interactive process to determine what accommodations, if any, the employer can offer to permit the employee to perform the job.

Copyright © 2025 Godfrey & Kahn S.C.

National Law Review, Volume IV, Number 29

Source URL: <https://natlawreview.com/article/fourth-circuit-temporary-impairment-may-constitute-disability-after-americans-disabi>