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Sixth Circuit Opinion Offers Guidance on How Employers Can Identify Reasonable Accommodation Requests Under the ADA

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It is well settled that when requesting reasonable accommodation under the Americans with Disabilities Act (ADA), employees are not required to use the words “ADA,” “reasonable accommodation,” “disability,” or any other special words—nor are they required to make the request in any specific manner (e.g., oral or written). Employees are required only to communicate that they need an adjustment, modification, or change at work because of a medical condition or disability. Thus, employers may not always recognize when an employee is making a request for reasonable accommodation, triggering their obligations under the ADA’s interactive process.

Quick Hits

- Employers are required to consider drawing all reasonable inferences from what an employee “says,” and the context in which such statements are made, in assessing whether a request has been made for a reasonable accommodation under the ADA.
- Employers can require employees to provide medical documentation in support of a need for accommodation rather than making assumptions about an employee’s limitations.
- If employers can reasonably infer from context that an employee’s physical or mental struggles stem from a disability, this would be sufficient notice to begin the ADA interactive process.

The U.S. Court of Appeals for the Sixth Circuit recently issued a decision in *Yanick v. Kroger Co. of Michigan*, providing additional guidance on how employers can identify when an employee has communicated a need for an adjustment at work—or, in other words, a reasonable accommodation, under the ADA. In *Yanick*, given the close temporal proximity to the employee’s return from leave due to breast cancer surgery and her comments about “struggling physically” and needing “time to get back to normal,” the court found that the employer could reasonably infer that the employee had requested an ADA-qualifying accommodation.

Background and the Court’s Decision

Within one day of being diagnosed with breast cancer, Mary Ellen Yanick broke the news to her assistant store manager, who then relayed the diagnosis to the store manager. Following a series of

meetings about Yanick's unsatisfactory job performance, Yanick began medical leave on February 15, 2018, to undergo surgery. Almost four months later, Yanick returned to work without any restrictions. However, one week later, the store manager met with Yanick to again discuss her unsatisfactory job performance. At this time, Yanick stated that she "was struggling" and needed "some time to get back to normal," and that she had worked fifty-three hours the previous week, which was "hard for [her] physically." Yanick eventually stepped down from her position and ultimately ended up working in a position with lower pay and less authority.

Yanick subsequently filed a lawsuit alleging claims under the ADA for disability discrimination, failure to accommodate, and retaliation. The district court held that none of Yanick's claims survived summary judgment, but the Sixth Circuit reversed on the claim for failure to accommodate.

The Sixth Circuit found that although Yanick had returned to work without restrictions, once she explained she was struggling physically, and, due to the close temporal proximity to her return from medical leave, the employer had been sufficiently informed of lingering issues from her disability, putting it on notice that Yanick required modifications to her job. The Sixth Circuit noted that although Yanick's comments were "no model for how to make an accommodation request," given their "context," they "provide[d] just enough information … to raise a triable issue" for a jury that she had made a request. Further, if the employer believed Yanick's issues to be disingenuous, it could have asked Yanick for medical documentation, but did not, the court stated.

Key Takeaways

Employers may want to assess all available facts, and if there is uncertainty, make further inquiries to determine whether an employee has communicated the need for a work adjustment because of a disability. As a request for accommodation is the first step, triggering an employer's obligation to initiate the ADA interactive process, employers may want to ensure that supervisory personnel are aware of and understand the company's reasonable accommodation process and procedures. Although failure to engage in the interactive process does not on its own provide a basis for liability, such a failure that prevents an employee from receiving a reasonable accommodation could result in potential liability for employers.

D. Colby Orton also contributed to this article.

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