

## Workplace Anxiety and the Americans with Disabilities Act

Article By:

Maria L. H. Lewis

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For employers, weighing an employee's health issues with workplace concerns, such as employee safety and productivity, often requires a delicate balance. The challenge may be even greater when handling issues related to mental health. Questions abound on both sides: employees wonder if they should tell their employers about personal events that may be affecting their mental well-being, and employers struggle with difficult decisions concerning employment status when they have an ineffective worker.

The ***Americans with Disabilities Act*** ("**ADA**") generally bars discrimination against an employee with a disability who is able to perform the essential functions of his or her job with or without a reasonable accommodation. The ADA defines "disability" as a "physical or mental impairment that substantially limits one or more major life activities." The associated regulations define "mental impairment" as encompassing "any mental or psychological disorder, such as intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disabilities." Navigating these definitions and avoiding lawsuits and potential liability for claims of mental disability present a serious challenge for employers.

Earlier this month, the U.S. Court of Appeals for the Fourth Circuit attempted to clarify the terrain. In ***Jacobs v. N.C. Admin. Office of the Courts***, No. 13-2212, 2015 U.S. App. LEXIS 3878 (4th Cir. March 12, 2015), the Fourth Circuit reversed the lower court's summary judgment dismissal of a lawsuit in which the plaintiff, who alleged that she suffered from "social anxiety disorder," claimed that her former employer violated the ADA by: (1) discriminating against her on the basis of her disability; (2) failing to provide her with a reasonable accommodation; and (3) retaliating against her for seeking to exercise her rights under the ADA. The plaintiff, a deputy court clerk, alleged that her disability left her unable to engage in social interactions with the public at the courthouse's front counter. In particular, she asserted that "working at the front counter caused her extreme stress and panic attacks." The plaintiff alleged that, approximately three weeks after requesting reduced public interaction, the defendant terminated her employment.

The *Jacobs* Court, the first Court of Appeals to address "social anxiety disorder" under the ADA in the employment context, held that interacting with others is a major life activity and that social anxiety disorder can substantially limit one's ability to engage in this activity. Thus, according to the Court, social disability disorder may constitute a disability under the ADA. The Court also considered the fact that many deputy court clerks at the defendant courthouse did not regularly interact with the public and, therefore, public interaction was not an essential function of the job. The Court concluded

that a reasonable jury could find evidence supporting each of the plaintiff's ADA claims. Accordingly, it reversed the lower court's judgment and remanded the case for trial.

According to the National Alliance on Mental Illness, approximately 1 in 4 adults suffer from a mental health disorder. These disorders include depression, bipolar disorder, panic, post-traumatic stress and generalized anxiety disorders. Given the statistics, it is important for employers to understand their obligations under the ADA and similar state and local laws, and to consult with counsel when questions arise.

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