

P&A TiDBITS

LEGAL NEWS & other Disability-Related info

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Remembering George H.W. Bush

George H.W. Bush, the 41st president of the United States who passed away in November, was remembered by many in the disability community as a champion of the Americans with Disabilities Act (ADA). President Bush signed the ADA into law in 1990. (Picture to right)



President Bush's life also exemplified his embrace of what it meant to have disability limitations and with dignity. The picture below of Sully, his personal service animal, is a poignant image of the great man we remember.

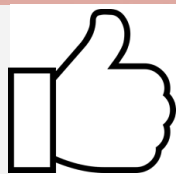


Tenth Circuit Rules an Adverse Employment Action is Necessary to Prevail in an ADA Failure to Accommodate Claim

In a 2 to 1 decision, the Tenth Circuit refused to overturn a jury verdict against a former employee who claimed she was not accommodated and was forced to resign. *Exby-Stolley v. Bd. of Cty. Comm'rs., Weld Cty., Colo.*, 906 F.3d 900 (10th Cir. 2018). A county health inspector who could no longer perform her job sought various accommodations in order to remain employed. The county allowed the employee to work part-time in a temporary position for the same pay, but the employee did not like the position. Following an impasse about future accommodations, the employee asserted she was asked to resign. The county, however, disputed the employee's version, stating that it neither terminated her employment nor asked her to resign.



Accessibility NEWS



"A Case for Inclusive Design"

This article, written by an architect, urges designers to view accessibility as an opportunity rather than an obligation – a "catalyst for innovation."

Source: https://www.architectmagazine.com/practice/a-case-for-inclusive-design_o

"A Smart City Is an Accessible City"

This article explores the pros and cons of using crowd-sourced digital-accessibility maps to identify accessible facilities.

Source: <https://www.theatlantic.com/technology/archive/2018/11/city-apps-help-and-hinder-disability/574963/>

Improving Outcomes for Youth Receiving SSI

Young people with disabilities, particularly those who receive Supplemental Security Income (SSI), face unique challenges as they transition into adulthood. The SSI Youth Recipient and Employment Transition Formative Research project produced several new resources for policymakers and program practitioners. Reports, issue briefs, and webinars explore promising practices for serving these youth.

Source: <https://www.mathematica-mpr.com/our-publications-and-findings/projects/initiatives-to-improve-adult-outcomes-and-employment-opportunities-for-young-recipients-of-ssi>

Just when you thought . . .

Tenth Circuit (from page 1)

A jury returned a verdict for the county. Following the judge's instructions, the jury found the employee did not show an adverse employment action. Implicit in the verdict was the jury's decision that it believed the county's testimony that the employee voluntarily resigned and that the temporary part-time position with no loss of pay was not an adverse action. Id. at 905. The employee appealed the jury instructions and verdict, but the Tenth Circuit affirmed.

Analyzing the language of Title I of the ADA, the court found that use of the phrase "terms, conditions, or privileges of employment" in the definition of discrimination requires a plaintiff to show some adverse employment action. Id. at 906 - 908. The court then reasoned that since failure to make a reasonable accommodation is included as a form of discrimination under the ADA, the requirement of an adverse employment action is still necessary as with any other form of employment discrimination claim. See id. Showing an employer failed to accommodate alone is insufficient to succeed in a discrimination claim under Title I of the ADA.

The National Disability Rights Network joined the Colorado Plaintiff's Employment Lawyers Association and the National Employment Lawyers Association in an amicus in support of plaintiff's petition for rehearing en banc, which seeks to have the entire Tenth Circuit panel review the court of appeals decision. The amicus argues that requiring proof of a disparate-treatment style "adverse action" in a failure-to-accommodate claim is inconsistent with the plain language and structure of the ADA and its implementing regulations.

As developments occur in this important case, P&A Tidbits will provide additional reports.

FOR MORE
INFO

CONTACT US

Protection & Advocacy System, Inc.

7344 Stockman Street
Cheyenne, WY 82009

(307) 632-3496
(800) 624-7648
(307) 638-0815

Voice or Relay
(Clients Only)
FAX