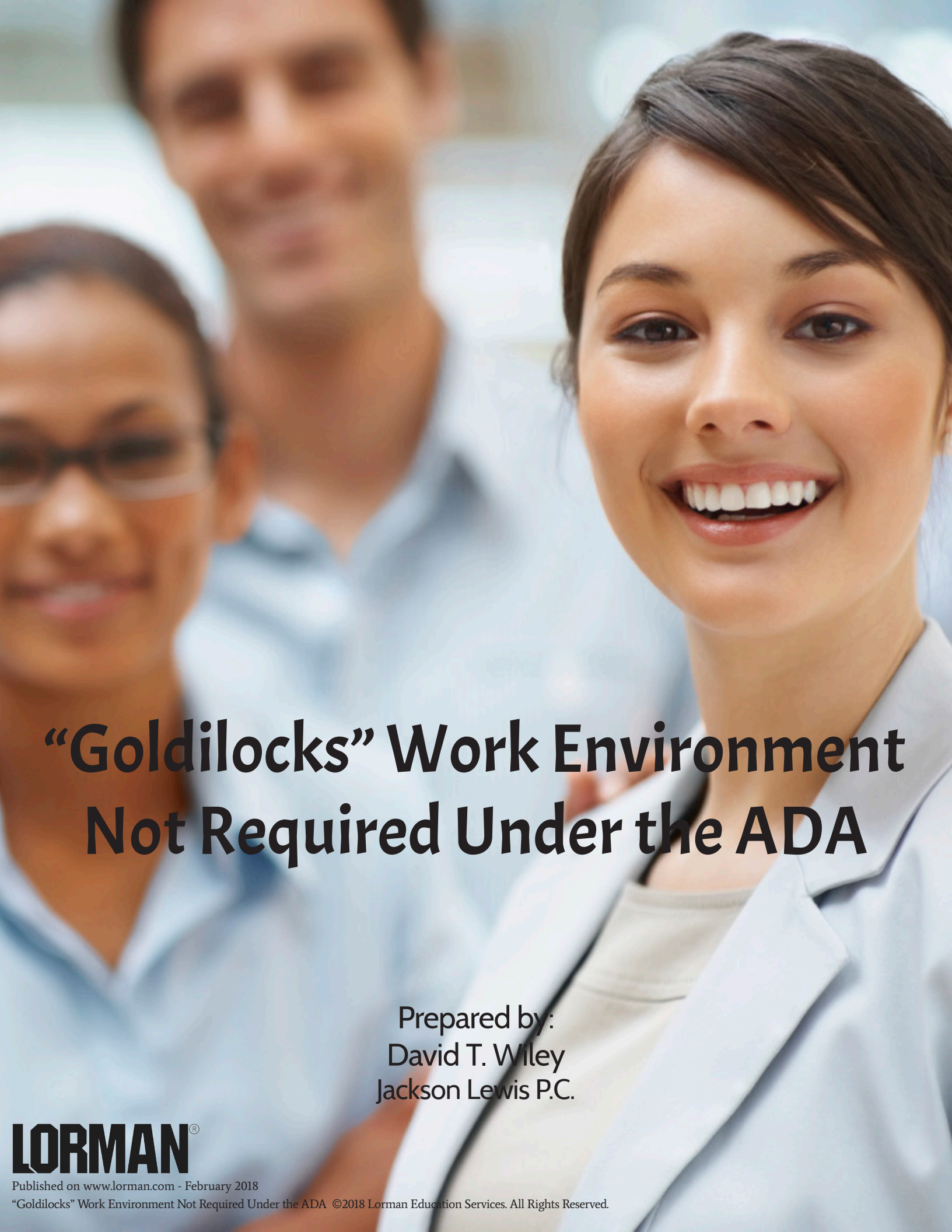

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“Goldilocks” Work Environment Not Required Under the ADA

By David T. Wiley on April 14, 2017

Just over two decades ago, when the ADA was in its infancy and this blogger was a summer associate heading into his final year of law school, I attended a hearing in federal court where the judge was considering a motion to dismiss the ADA claims of a plaintiff-employee. The plaintiff was claiming, among other things, that his employer had failed to reasonably accommodate him under the Act. His contention was that the job for which he was hired was too stressful and therefore exacerbated his alleged disability, rendering him unable to effectively perform the job. When he asked for an accommodation, the employer reassigned him to a considerably less stressful job. However, the plaintiff complained, the new job wasn’t stimulating enough to keep him motivated to work; in other words, it wasn’t stressful enough. The judge didn’t buy the plaintiff’s Goldilocks-based theory that he was entitled to a job with a “just right” amount of stress and, in fact the judge’s clerk, paraphrasing an Eagles song popular at the time, commented afterward that the plaintiff should just “get over it.” Fortunately, twenty years later the courts still don’t buy the theory that a generally stressful environment warrants an ADA accommodation.

For example, in Hargett v. Florida Atlantic University Board of Trustees, 2016 U.S. Dist. LEXIS 154822 (S.D. Fla. Nov. 8, 2016), the plaintiff, a university employee, suffered from epileptic seizures. When the plaintiff began reporting to a new supervisor, she concluded that he was treating

her in a uniquely harsh manner, scrutinizing and micromanaging her work and causing her to have seizures. Over the next several years, the relationship between the plaintiff and the supervisor continued to deteriorate. Ultimately, the plaintiff requested a multi-pronged accommodation for her epilepsy including, but not limited to, a request that the supervisor "cease his hostile confrontations" and that either the university "sensitize" the supervisor as to his dealings with women with epilepsy or move the supervisor out of her chain of command. The university agreed to some of the plaintiff's requests but not to any of these. The plaintiff then filed an EEOC charge, followed by a lawsuit.

In granting the university's motion for summary judgment, the trial court noted that although specific stressors may in some cases be legitimate targets of accommodation, an employee cannot immunize herself from stress and criticism in general; that appeals to work in a more nurturing work environment, not directed at any particular person, are not sufficiently specific accommodation requests; and that the obligation to make a reasonable accommodation does not extend to providing an "aggravation-free" or "peaceful calm" environment. In this particular case, the plaintiff did not identify any specific stressors that her supervisor created; rather, she generally characterized his management style as a series of "hostile confrontations." Thus, her corresponding request for "calm, fair, non-confrontational treatment" was deemed unreasonable and insufficiently specific to constitute a valid ADA accommodation request.

Therefore, while employers need not provide employees with a stress-free working environment or, as Goldilocks might desire, one with "just the right amount" of stress, care nevertheless should be taken to ensure

that management is not creating undue stress on, or hostility toward, an employee in response to a known (or perceived) disability because, even if “de-stressing” the workplace doesn’t constitute a reasonable accommodation, the treatment of the employee might be deemed unlawful disability-based harassment. Accordingly, employers are encouraged to thoroughly examine and respond to any accommodation request, preferably with the guidance of human resources professionals and/or legal counsel.