

A photograph of three people, two women and one man, all wearing light blue lab coats. They are smiling and looking towards the camera. The woman in the foreground is the most prominent, with her face in sharp focus. The man and another woman are slightly behind her, blurred.

“Goldilocks” Work Environment Not Required Under the ADA

Prepared by:
David T. Wiley
Jackson Lewis P.C.

LORMAN[®]

Published on www.lorman.com - February 2018

“Goldilocks” Work Environment Not Required Under the ADA ©2018 Lorman Education Services. All Rights Reserved.

INTRODUCING

Lorman's New Approach to Continuing Education

ALL-ACCESS PASS

The All-Access Pass grants you **UNLIMITED** access to Lorman's ever-growing library of training resources:

- ✓ Unlimited Live Webinars - 120 live webinars added every month
- ✓ Unlimited OnDemand and MP3 Downloads - Over 1,500 courses available
- ✓ Videos - More than 1300 available
- ✓ Slide Decks - More than 2300 available
- ✓ White Papers
- ✓ Reports
- ✓ Articles
- ✓ ... and much more!

Join the thousands of other pass-holders that have already trusted us for their professional development by choosing the All-Access Pass.



Get Your All-Access Pass Today!

SAVE 20%

Learn more: www.lorman.com/pass/?s=special20

Use Discount Code Q7014393 and Priority Code 18536 to receive the 20% AAP discount.

*Discount cannot be combined with any other discounts.

“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.

The material appearing in this website is for informational purposes only and is not legal advice. Transmission of this information is not intended to create, and receipt does not constitute, an attorney-client relationship. The information provided herein is intended only as general information which may or may not reflect the most current developments. Although these materials may be prepared by professionals, they should not be used as a substitute for professional services. If legal or other professional advice is required, the services of a professional should be sought.

The opinions or viewpoints expressed herein do not necessarily reflect those of Lorman Education Services. All materials and content were prepared by persons and/or entities other than Lorman Education Services, and said other persons and/or entities are solely responsible for their content.

Any links to other websites are not intended to be referrals or endorsements of these sites. The links provided are maintained by the respective organizations, and they are solely responsible for the content of their own sites.