

Good News for Employers on the Americans With Disabilities Act

BY MIKE FOX AND DENIS JACOBSON

In *Toyota Motor Manufacturing v. Williams*, 534 U.S. 184, 122, S.Ct. 681 (2002), the United States Supreme Court, in a unanimous opinion, again rejected an attempt to expand the coverage of the Americans with Disabilities Act (ADA).

This is the second time in the last three years that the court has declined the opportunity to expand the scope of the ADA. This decision combined with the court's previous decision in *Sutton v. United Airlines Inc.*, 527 U.S. 471, 119 S.Ct. 2139 (1999) shows the court's belief that the ADA should be strictly construed in deciding whether an individual is disabled.

The issue before the court in *Sutton* was whether corrective and/or mitigating measures should be used in deciding whether a person was disabled under the ADA.

For example, should individuals with bad eyesight, hearing impediments, high blood pressure or diabetes be viewed as disabled even though with corrective measures they are not impaired or the impairment does not substantially affect their day-to-day life activities.

In rejecting the plaintiff's claim, the court held that the proper inquiry was whether an individual is disabled after corrective measures are taken. In *Williams*, the court was again faced with an attempt to expand the scope of the ADA and again rejected the attempt to do so.

The issue before the court in *Williams* was whether the employee could establish a disability by showing that she was unable to perform a variety of work related tasks because of her medical condition. In rejecting this standard, the court again emphasized that in deciding whether an individual is disabled the ADA is to be strictly construed.

Therefore, an individual could not establish that they were disabled by merely showing that their medical condition affected their ability to perform job related tasks. Rather, in order to establish a disability under the ADA, a person must show that the medical condition must have substantially limited an individual's ability to perform tasks central to their daily life.

The facts in the case established that Ella Williams suffered from a variety of medical conditions, which included carpal tunnel syndrome, myotendinitis and thoracic outlet compression. The parties agreed that these medical conditions were real, amounted to physical impairments and that the physical impairments prevented Williams from lifting more than 20 pounds, performing overhead work or from performing jobs which involved repetitive motion.

In light of William's medical conditions, Toyota assigned Williams to a Qualified Control Inspection Operation (QCIO) team. Williams performed the tasks assigned to her as part of QCIO in a satisfactory manner for two years. At that point, Toyota altered her job duties. One of the duties

assigned to Williams resulted in her having to hold her hands and arms at shoulder length for several hours throughout the workday.

Shortly after she began performing the revised job, Williams experienced pain in her neck and shoulders. Williams sought medical treatment and was diagnosed with a variety of medical problems. While Williams and Toyota disagreed regarding whether Toyota modified her job in response to her medical condition, it appears that Williams began missing work on a regular basis.

Williams was eventually written out of work by her treating physician. Approximately one-month later Williams' employment with Toyota was terminated based on the company's claim that she had a poor attendance record.

In response to her termination, Williams filed suit alleging that her rights had been violated under the ADA. The District Court granted Toyota's Motion for Summary Judgment. The 6th Circuit reversed, finding that Williams was disabled because her medical condition affected her ability to perform a broad range of tasks at work. In finding that Williams was disabled, the 6th Circuit focused on how Williams' medical condition affected her ability to perform her job.

The issue before the Supreme Court was whether the 6th Circuit had used the proper standard in determining that Williams was disabled. The answer was a resounding no. Rather than focus on the effects of Williams' inability to perform manual tasks related to her job, the court held that the proper inquiry was whether Williams' medical condition rendered her unable to perform tasks central to her daily life.

In other words, in order to be disabled under the ADA, it is not sufficient that an individual cannot perform certain work related tasks. Rather, the medical condition must have the effect of rendering an individual unable to perform everyday tasks such as bathing, brushing their teeth, preparing meals, doing laundry and other tasks which are central in people's lives.

While the opinion clearly shows the court's reluctance to expand the ADA, it does not mean that individuals diagnosed with the same or similar medical conditions as Williams would necessarily be disqualified from coverage under the ADA.

In fact, the court remanded this case for the 6th Circuit to enter an order based on the standard set by the court. Moreover, the court emphasized that whether an individual is disabled should be determined on a case-by-case basis.

Therefore, while employers may take comfort from the

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Senate Bill 795, Repeal Chapter 78B (the "Tender Offer Disclosures Act") and amends the Business Corporation Act (GS 55) and the Securities Act (GS 78A). Signed by the governor on June 14, 2001. Portions effective Oct. 1, 2001, others June 14, 2001.

Senate Bill 842, Business Entity Changes. Signed by the governor on Aug. 26, 2001. Effective Jan. 1, 2002. Various changes to the Business Corporation Act (GS 55), Non-Profit Corporation Act (GS 55A), Limited Liability Company Act (GS 57C) and Partnership Laws (GS 59). The bill makes the following changes to the laws concerning corporations, LLCs, partnerships and limited partnerships:

- Allows the holders of a majority of the shares of closely-held corporations to take action without having a meeting (prior law required unanimous consent)—closely-held corporations must so elect in their articles of incorporation.
- Allows corporations to operate under the Uniform Electronic Transactions Act (UETA), including allowing online shareholders meetings for closely-held corporations and other methods of electronic communication.
- Allows business corporations to convert directly to noncorporate business entities and vice-versa.
- Allows N.C. business entities (corporations, LLCs, partnerships) to convert directly to out-of-state business entities (prior law only allowed conversions into N.C. entities).
- Allows the creation of a limited liability limited partnership (limited partnership with a general partner with limited liability), registration of limited liability partnerships

(general partnerships with partners with limited liability) and registration of out-of-state limited liability partnerships.

- Standardized definition of business entity and other terms.
- Clarifies distinction of forming and organizing LLC.
- LLCs and partnerships are taxed in accordance with their federal income tax classification.
- Entry of reinstatement of an administratively dissolved corporation or LLC (for failing to report or pay taxes) is retroactive to date of dissolution, subject to rights of any person who reasonable relied to that person's prejudice on the dissolution.

Senate Bill 1023, Revise Uniform Electronic Transactions Act. Signed by the governor on July 21, 2001. Effective Oct. 1, 2001. Includes "consumer" within the definition of how a transaction occurs. Establishes choice of law provision. ■

BROOKS, ASSOCIATE GENERAL COUNSEL WITH MARTIN MARIETTA MATERIALS IN RALEIGH, IS THE FORMER CHAIR, AND MCCORQUODALE, GOVERNMENT RELATIONS LIAISON WITH SAS INSTITUTE IN CARY, IS CURRENT CHAIR OF THE SECTION'S LEGISLATIVE COMMITTEE. SECTION MEMBERS WITH INTEREST IN THE COMMITTEE AND ITS ACTIVITIES SHOULD CONTACT MCCORQUODALE AT DON.MCCORQUODALE@SAS.COM. SPECIAL THANKS GO TO BILL SCOGGIN AND FRAN PRESON FOR THEIR REVIEW AND ADDITIONS TO THIS LEGISLATIVE UPDATE. ALSO SPECIAL THANKS TO MICHELLE FRAZIER OF THE NORTH CAROLINA BAR ASSOCIATION FOR HER REVIEW AND INPUT.

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court's decisions in **Williams** and **Sutton**, counsel should always remember that each individual case must be analyzed to determine if there is ADA coverage. Finally, when examining potential ADA claims, it is important to remember that employees may have separate causes of action under North Carolina statutory and common law, other federal law regarding disabled individuals, workers' compensation and the Family Medical Leave Act. ■

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