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TRACKING DEVELOPMENTS IN EMPLOYMENT LAW

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Morbid Obesity Is Not An Impairment Under The ADA

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In an Opinion issued September 12, 2006, the United States Court of Appeals for the Sixth Circuit concluded that morbid obesity, which was not related to any physiological cause, is not an impairment under the Americans with Disabilities Act of 1990 (ADA). In *Equal Employment Opportunity Commission v Watkins Motor Lines, Inc.*, the Court upheld the finding of the District Court that non-physiologically caused obesity is not an “impairment” under the ADA.

The case was brought by the Equal Employment Opportunity Commission (EEOC) on behalf of Stephen Grindle, who worked for the Defendant, Watkins Motor Lines. Grindle began working for Watkins as a driver/dock worker in August 1990. Approximately 65% of his time was spent performing dock work, which involved climbing, kneeling, bending, stooping and repeated heavy lifting. Grindle testified that when hired, he weighed approximately 345 pounds. Over the next five years, his weight fluctuated, at times reaching a high of 450 pounds. Grindle knew of no physiological or psychological cause for his weight.

After working five years, Grindle injured his knee at work when a rung broke on the ladder which he was climbing. He returned to work the next day and worked 50 to 60 hours a week during the following month. Approximately 1.5 months after the incident, Grindle took a leave of absence as a result of the knee injury. Watkins’ policy provided for termination of any employee who took a leave of absence in excess of 180 days. Grindle was informed that in order to return to work, he needed a release from his doctor.

Shortly before the 180-day leave expired, Grindle’s treating doctor gave him a return to work release. Watkins rejected the work release because Grindle’s doctor had not reviewed Grindle’s job description. Watkins sent the job description to Grindle’s doctor, but the doctor did not issue a new or amended work release.

Watkins had Grindle examined by its doctor who concluded that Grindle had a limited range of motion, and that while he could duck and squat, he was short of breath after only a few steps. At the time of his exam, Grindle weighed 405 pounds. The company doctor concluded that even though Grindle met Department of Transportation standards for truck drivers, he could not safely perform the requirements of his job.

Grindle was eventually terminated because he was unable to return to work within 180 days. Grindle filed a complaint with the EEOC alleging he had been discharged because of his weight. The EEOC filed an action in the United States District Court claiming Watkins

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The opinion of the Court was carefully crafted to leave the door open for future plaintiffs to successfully argue that obesity resulting from a physiological cause is protected by the ADA. However, what the Court did not address is how future plaintiffs, such as Grindle, would fit within the ADA definition of a “qualified individual with a disability” which is: an individual with a disability who, with or without reasonable accommodation, can perform the essential functions of the employment position. Considering Grindle’s morbid obesity, it is doubtful that any reasonable accommodation would have been sufficient to enable him to perform the essential functions of his job.

While the Grindle decision appears to open a door for future plaintiffs, employers should note the limitations in the case. The Grindle court limited its analysis to the requirement that a disability have a physiological cause. The court did not rule out the applicability of other defenses. Employers should carefully examine a claim to determine if each element necessary for an ADA claim has been met.

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violated the ADA when it discharged Grindle because of his obesity which, it argued, constituted an impairment under the ADA.

Under the ADA, employers cannot discriminate against a qualified “individual with a disability” which is defined as a “physical or mental impairment that substantially limits one or more of the major life activities of the individual.” However, even individuals *without* a disability are protected under the ADA, if their employer regards them as being disabled.

To successfully pursue a “regarded as” disabled claim, an employee must allege that he was perceived to have an impairment protected by the ADA that was wrongfully regarded as affecting his ability to do his job.

In making its argument, the EEOC conceded that merely being overweight was generally not considered an ADA impairment. However, the EEOC argued that the lower court blurred the distinction between moderate obesity and morbid obesity. Morbid obesity is defined as body weight more than 100% over the norm.

The lower court noted that morbid obesity could be an ADA impairment when it had a physiological cause, but concluded that non-physiologically caused morbid obesity was not an impairment under the ADA. The Sixth Circuit Court of Appeals agreed with the District Court and upheld its ruling.

In reaching its decision, the Court of Appeals noted that an impairment under the ADA is any “physiological disorder, or condition, cosmetic disfigurement, or anatomical loss affecting one or more of [various] body systems.” Similarly, a “physical impairment” is defined in the ADA as “any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of” various body systems, including neurological, musculoskeletal, respiratory, cardiovascular and digestive.

The Court of Appeals noted that in the past it had repeatedly emphasized that a physical characteristic must relate to a physiological disorder in order to qualify as an ADA impairment. In earlier cases, the Court had concluded that physical characteristics that are not the result of a physiological disorder are not considered impairments for the purposes of determining either actual or perceived disability under the ADA.

The appellate court concluded that to constitute an ADA impairment, obesity, even morbid obesity, must be the result of a physiological condition. The Court noted that because Grindle did not show that he suffered from an ADA impairment, the Court need not address whether his employer perceived him to be substantially limited in any major life activities.

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