

YOU'RE LOOKING AT ME LIKE I'M CRAZY!

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"A nut case." "Crazy as a loon." "A Total Fruit Cake." "Just aint right in the head."

We often use terms such as these to refer to people who behave peculiarly, at work or otherwise. Until recently, the use of such expressions was fairly harmless. Now, using such terms to refer to a subordinate or co-worker may give rise to a "regarded as disabled" lawsuit under the Americans with Disabilities Act. This is because an individual need not actually be disabled to qualify for protection under the ADA. A person may still be protected if others in the workplace consider him or her to be disabled. While "regarded as disabled" claims were not exactly popular in the early years of the ADA's life, they are now on the rise. They are particularly likely to occur when an individual is assumed to have a mental disorder of some kind. No one is likely to be regarded as blind or deaf if they are not actually so, but an employee's odd, hostile, or erratic behavior may cause others to assume that he is mentally ill when in fact he may not be.

As more "regarded as" cases have been pursued in recent years, a jurisprudence is starting to develop to better define the concept. On account of the ADA's unique structure, however, the definition still remains quite slippery in many instances.

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