



Jerk Isn't Disabled: However, Can They be Lawfully Terminated

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Myra Creighton's article "Jerk Isn't Disabled: However, Can They be Lawfully Terminated?" was featured in *Legal and Compliance Excellence Magazine* on December 9, 2014.

The 9th Circuit Court of Appeals recently reversed a verdict for a plaintiff police officer on his claim that his employer terminated his employment based on his disability. The court disagreed that the plaintiff had a disability. One jurist summarized the decision as: "[He] isn't disabled, he's just a jerk."

Certainly, employers are quite happy to see that everything is not a disability according to the ADA Amendments Act. As far as more practical implications, the decision stands for the idea that employers are permitted to enforce their conduct and behavior standards as they concern interpersonal interactions between co-workers.

In the article, Myra provides employers with guidelines on how to manage employees conduct amongst co-workers.

1. When employees are behaving badly, an employer's first instinct should not be to do a medical inquiry to determine whether the employee has a disability. Rather, employers should address poor behavior as just that, bad behavior in the workplace.
2. Employers' job descriptions should state that an essential function, particularly in jobs that require team work, is the ability to get along with others and to interact positively with them.
3. Employers' handbooks should prohibit rude, ill-mannered behavior and written communications with their co-workers.
4. Employee evaluations should specifically address the manner in which a co-worker interacts with his co-workers, the public or customers. If an employee cannot manage their conduct, this case establishes an employer is well within its rights to discipline an employee for such misconduct and/or alternately terminate them for their interpersonal shortcomings.

This article was featured on *MultiBriefs* on October 30, 2014.

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