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EMPLOYEE'S TEMPORARY, NON-CHRONIC IMPAIRMENT DOES NOT MEET ADA DEFINITION OF "DISABLED"

Sweet Stevens Katz & Williams was recently successful in dismissing a claim under the Americans with Disabilities Act (ADA) in federal court based on the argument that the former employee of a school district did not present sufficient evidence that she had a disability. (See, *Sampson v. Methacton School Dist.*, 2015 WL 641216 (E.D.Pa. Feb. 12, 2015).

Although the purpose of the ADA is to protect and assist individuals with disabilities, it is well-established that "not every impairment will constitute a disability" under the ADA. 29 C.F.R. § 1630.2(j)(1)(ii). Therefore, in an ADA action, it is the employee's burden to demonstrate that he or she was truly disabled or substantially limited in performing a major life activity.

In the above case, the employee argued that she was disabled within the meaning of the ADA because she suffered a meniscus tear in her left knee that allegedly substantially limited her ability to walk, stand, bend, and work. The employee injured her knee in August of 2009 and by November was having difficulty walking around the building and fulfilling her job duties as principal. On March 8, 2010, the employee had surgery and missed the remainder of the school year. Following time off and physical therapy, the employee testified at times she had to wear a knee brace but could essentially do everything she used to do before she was injured. The employee's medical records also showed that the employee received no treatment except for very limited visits in a four month period following her surgery. Ultimately, the employee was terminated in August 2011 for repeated lateness and for failure to follow her supervisor's instructions. After the termination, the employee sued the school district, in part, on the basis that she was terminated because she was disabled.

In viewing the above evidence in the light most favorable to the employee, the district court concluded that the employee failed to demonstrate that the injury to her knee was a permanent, long-term condition that substantially impaired a major life activity. The fact that the employee's injury was finite in duration and that the employee recovered from her injury at the time she was discharged was central to the court's determination.

In sum, school entities can prevail in ADA claims by demonstrating that the employee's limitation was for a temporary period of time and that the impairment was not severe. The protections afforded under the ADA were simply not designed to be extended to every physical ailment nor to apply under all circumstances.

Clients who have questions regarding issues discussed in this article, or any education law matter, should feel free to call us at 215-345-9111.