

ADA Amendments Act Presentation

I. Background

1. Why was it necessary to have the Amendments Act?

a) The original ADA definition of disability included the phrase “substantially limits one or more of major life activities.”

b) This terminology was taken from the Rehabilitation Act and the portion of the phrase dealing with substantial limitation had historically been broadly interpreted.

c) Under the ADA the EEOC regulations defined substantially limited as significantly restricted by the condition which related to the disability.

2. For the first time defendants were filing motions to dismiss cases of employment discrimination on the grounds that even if the person had an impairment it did not substantially limit a major life activity.

a) In *Sutton vs. United Airlines* the Supreme Court said that when determining whether a condition substantially limits a major life activity you must take into consideration any mitigating measures. In *Sutton* the particular mitigating measure was eye glasses used to correct severe near sightedness.

b) Several lower courts extended the use of looking at mitigating measures when considering whether someone had a disability or not. Even going so far as to saying that a person with an amputated leg may not have a disability if there were able to walk with a prosthesis.

3. The next big Supreme Court case was *Williams vs. Toyota*. In the *Toyota* case the court looked at what constituted substantial limitation of a major life activity.

a) The court ruled that if the only activity of daily living that was substantially limited was the ability to work the individual did not have a disability.

b) The court ruled that one of the activities of daily living that is written in the language of the ADA had to be substantially limited to constitute a disability.

II. Where are we now?

1. The ADA Amendments Act which was originally the ADA Restoration Act passed both houses and was signed into law in 2008. The law went into effect January 1, 2009.

a) Congress found that the courts were applying too high of a standard when determining what constitutes a disability under the original ADA. Specifically, congress found that courts should not consider mitigating measures when determining whether or not a condition is severe enough to be considered a disability. The only exception to the new mitigating measures rule are ordinary eye glasses and contacts.

b) Congress expanded what constitutes a major life activity to include major bodily functions.

2. The other big change under the ADA Amendments Act was under the regarded as prong of the disability definition. Under the original ADA a plaintiff in an employment disability discrimination case would have to have a "smoking gun" such as an internal memo to prove that an employer regarded the individual as having a disability. Under the ADA Amendments Act a person can prove that the employer regarded them as having a disability if the individual can establish that he or she has been subjected to a discriminatory act due to a physical impairment whether or not the impairment limits a major life activity. This does not extend to a transitory impairment that has a duration of six months or less.

3. Reasonable Accommodation. Only individuals who have an actual impairment or a record of such impairment are entitled to reasonable accommodation under the ADA Amendments Act. Therefore, a person who is regarded as having a disability will be able to file a claim for discrimination but cannot get a reasonable accommodation for limitations that the employer perceives the individual to have.