



Americans with Disabilities Act (ADA)

By studying other companies' ADA violations, you can learn what mistakes to avoid and what steps you should take to prevent disability discrimination in your workplace. These examples, additional case studies and more information about ADA compliance are available at [.In addition to these case studies, Express Personnel Services is prepared to help you learn about this and other human resource issues. Contact your local Express office today for more information on the ADA and to find out how we can help solve your HR challenges.](#)

EEOC AND AIRLINE COMPANY SETTLE DISABILITY DISCRIMINATION SUIT

The U.S. Equal Employment Opportunity Commission (EEOC) and an airline company settled a lawsuit under the Americans with Disabilities Act (ADA). EEOC's lawsuit, filed on April 25, 2001, alleged that the airline excluded applicants for airport ramp equipment service employee and cleaner positions if they had epilepsy or insulin-dependent diabetes. The airline specifically denies the allegations and believes that its hiring processes are and were proper, but is voluntarily entering into the settlement to avoid protracted litigation.

A key element of the agreement is that the airline will offer an individualized assessment of the current ability of an airport ramp position applicant with insulin-dependent diabetes or a seizure disorder to safely perform, with or without reasonable accommodation, the job's essential functions. The airline will also provide a settlement fund of \$510,000 for distribution among 28 individuals for whom the EEOC was seeking relief.

Chester V. Bailey, District Director of the Milwaukee District Office, said, "This lawsuit was an important reminder to employers that the ADA requires that they give individualized assessments to their employees with disabilities to determine whether they could perform their jobs with or without reasonable accommodation."

EEOC WINS \$8 MILLION JURY VERDICT FOR BLIND WORKER

A 12-person jury returned an \$8 million verdict in federal court for the EEOC in a lawsuit alleging that a communications company violated the Americans with Disabilities Act of 1990 (ADA) when it refused to provide a reasonable accommodation to a qualified blind employee.

The jury verdict awarded \$2,000 in back pay, \$5,000 in compensatory damages, and \$8 million in punitive damages. In the trial, presided over by Judge Richard P. Matsch, the plaintiffs alleged the following:

The company failed to accommodate the plaintiff in the application process; failed to accommodate him in the job by never trying to install adaptive software; denied him an employment opportunity because of his disability or because of the need to provide him an accommodation; and violated a section of the ADA when it failed to use a proper testing device to determine an applicant's skills.

"This verdict should remind employers that refusing to abide by the law in accommodating individuals with disabilities can be costly," said Joseph Mitchell, Regional Attorney of the EEOC's Denver District Office. "Many individuals with disabilities, are ready, eager and able to work. All they need is the opportunity to do the job without discriminatory barriers based on myths, fears and stereotypes."



Americans with Disabilities Act (ADA)

In the trial, the plaintiffs presented evidence that the plaintiff, who is blind, applied for a customer service representative job at the company. Prior to applying, he completed training at the Colorado Center for the Blind for that very type of position. Blind individuals can perform the customer service representative job by using a computer program called JAWS (Job Access With Speech), which translates text into speech. A blind customer service rep uses a split headset, in which he hears the JAWS voice in one ear, and the customer conversation in the other ear. Using JAWS, people with vision impairments can process written language at 400 to 700 words per minute, which is faster than many sighted individuals read.

When the plaintiff first went to the company to apply, the company told him it would not do him any good to put in an application because they were not set up to handle blind people. However, after receiving a copy of his charge of discrimination, the company invited him back and put him through a sham interview process that included a Braille test, which was longer and more difficult than the test given sighted people, and a Windows skill test that consisted of a person giving him directions on how to access icons, such as "move to the left, move down, now click."

Much of the testimony related to whether, if the company had tried to install JAWS, it could have worked. The company asserted that JAWS could not have worked because of the complexity of the software environment. Contrary evidence presented by plaintiffs reflected that numerous employers in Denver had installed JAWS and employed blind customer service representatives at their call centers.