

Highlights

The 2025 update to Disability Discrimination in Employment includes the following key cases:

- *Behrend v. San Francisco Zen Center, Inc.*, 108 F.4th 765 (9th Cir.2024), affirming summary judgment against a Buddhist center’s workpractice apprentice because the ministerial exception foreclosed the ADA Title I claim.
- *DeFries v. Union Pacific Railroad Company*, 104 F.4th 1091 (9th Cir. 2024), cert. denied, 2025 WL 889139 (U.S. 2025), reversing dismissal of color-vision-restricted railroad conductor’s action challenging fitness for duty certification following class certification reversal for lack of commonality.
- *Goosen v. Minnesota Department of Transportation*, 105 F.4th 1034, 119 Fed. R. Serv. 3d 97 (8th Cir. 2024), affirming summary judgment against an accommodation claim of a heavy equipment field mechanic following an accident restricting him from holding his arms outstretched for more than three hours and working overhead over for more than six hours.
- *Howard v. City of Sedalia, Missouri*, 103 F.4th 536 (8th Cir. 2024), reversing judgment for a pharmacist with Type 1 diabetes who sought to bring a service dog into the nonsterile areas of the pharmacy.
- *Ali v. Regan*, 111 F.4th 1264 (D.C. Cir. 2024). reversing summary judgment against a Rehabilitation Act § 501 accommodation claim by an EPA economist with allergies.
- *Stanley v. Western Michigan University*, 105 F.4th 856 (6th Cir. 2024), affirming in relevant part, held that Eleventh Amendment immunity foreclosed the Title 1 action of a university employee with ADHD for his discharge for tardiness and failure to follow clock-in procedures.
- *T.W. v. New York State Board of Law Examiners*, 110 F.4th 71 (2d Cir. 2024), affirming dismissal of an ADA Title II and Rehabilitation Act § 504 action involving failure to accommodate during the bar exam by a person with a head injury.
- *Fisher v. Airgas USA, LLC*, 2024 WL 366246 (6th Cir. 2024), reversing summary judgment against the Ohio

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law disability discrimination claim of an employee discharged for marijuana use where the medical review officer said the positive test result came from hemp rather than marijuana and the court found the employer had not conducted a meaningful investigation under Ohio law.

- *Muldrow v. City of St. Louis, Missouri*, 601 U.S. 346, 144 S. Ct. 967, 218 L. Ed. 2d 322 (2024), expanding the definition of “adverse action” for retaliation claims, held the plaintiff need only show “disadvantageous change in an employment term or condition.” The foregoing may impact earlier cases, whether under ADA retaliation cases or otherwise.

Plus: The EEOC’s Interpretive Guidance to its proposed ADA regulations appears to place great weight on testimony concerning actual job duties. See 29 C.F.R. § 1630.2(n). Reasonable interpretation, consistent with common DOL Dictionary of Occupational Titles vocational terminology that written description sometimes use, should not defeat the ADA Title I rebuttable presumption that properly prepared written descriptions raise.