



2025 International Client Seminar

March 6-9, 2025

Help!

How to Handle Mental & Emotional Health Claims in the Workplace

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Mental & Emotional Claims on the Rise

In recent years, the number of charges filed with the U.S. Equal Employment Opportunity Commission (EEOC) related to mental and emotional health claims has seen a noticeable increase. These claims often cite violations under the Americans with Disabilities Act (ADA), which protects employees from discrimination based on physical or mental impairments that substantially limit one or more major life activities. The rising number of such charges reflects broader societal and workplace shifts, including increased awareness of mental health issues, evolving workplace norms, and the impact of the COVID-19 pandemic.

Key Trends

A growing number of employees are filing complaints alleging that their employers failed to provide reasonable accommodations for mental health conditions such as depression, anxiety, and PTSD. These claims may include requests for flexible work arrangements, modified duties, or changes to workplace environments that would enable employees to manage their mental health conditions while performing their jobs. And while some of the increase may be due to the lingering impact of the COVID-19 pandemic, which exacerbated mental health struggles for many individuals, leading to a sharp increase in stress, anxiety, and depression across the workforce, there are several key trends that have developed following the pandemic. Understanding these will allow an employer to better recognize and address mental health challenges as part of workplace accommodations under the ADA.

Greater Awareness and Reducing Stigma: Public awareness of mental health issues has significantly increased in recent years, due in part to advocacy efforts, media coverage, and workplace initiatives aimed at supporting mental wellness. As societal stigma around mental health continues to decrease, more employees feel empowered to seek accommodations or file complaints when they perceive that their mental health needs are not being met.

Employer Responsibilities and Challenges: Employers are becoming more aware of their obligations under the ADA and other legal frameworks but often face challenges in balancing legal compliance with maintaining productivity and business performance. As a result, there has been an uptick in Charges of Discrimination (“Charges”) related to perceived failures in accommodating mental health conditions or instances of retaliation against employees who request accommodations.

Reasons Behind the Rise

- **Workplace Stress and Burnout:** In recent years, many workplaces have seen heightened stress levels, driven by demands for increased productivity, the rise of technology, and an "always-on" work culture. The ongoing pressure to perform has led to a significant increase in burnout, anxiety, and depression among workers, with some filing EEOC Charges as a way to address these issues formally.
- **Remote and Hybrid Work Arrangements:** The shift to remote and hybrid work environments has transformed how employees interact with their employers and the structure of their workdays. While many employees appreciate the flexibility, others struggle with isolation, lack of support, and increased difficulty in separating work from personal life. This dynamic has led to greater mental health challenges, and employees are increasingly seeking legal redress when they feel their mental health is not being properly accommodated.
- **Legal and Policy Changes:** Some legal changes have contributed to greater attention to mental health in the workplace. For example, the expanded interpretation of disability under the ADA, as well as state-level laws that require employers to provide mental health support, have made it easier for employees to assert claims

related to their emotional and mental well-being.

- **The Rise of Mental Health in Corporate Culture:** Many companies have responded to these challenges by introducing wellness programs, mental health days, and Employee Assistance Programs (EAPs). However, despite these efforts, employees may still feel unsupported or encounter barriers to accessing help. Charges may arise when employees believe that their mental health issues have not been taken seriously, or that requested accommodations (such as flexible hours or reduced workloads) have been denied.
- **Social Movements and Employee Advocacy:** The growth of social movements advocating for mental health, such as the #TimeToTalk campaign or the rise of workplace mental health advocacy, has empowered employees to speak out about mental health concerns. Employees now have more tools, resources, and platforms for making their voices heard, leading to an increase in legal action related to emotional and psychological well-being.

The rise in EEOC charges related to mental and emotional health claims can be attributed to a combination of factors, including the increasing awareness of mental health issues, the stressors associated with modern work environments, the impact of the COVID-19 pandemic, and evolving legal standards. As workplaces continue to adapt to these changing dynamics, it is likely that mental health claims will remain a prominent issue in the coming years. Employers must balance supporting employee well-being with legal compliance, while continuing to address mental health challenges in a way that fosters an inclusive and productive work environment.

Overview of Recent Relevant Cases & Outcomes

In order to better understand the landscape of mental and emotional health claims, please see below for an overview of recent cases that proceeded to litigation within the last two years wherein a claimant sought damages related to alleged violations of the ADA with respect to mental or emotional claims.

1. *Lisa Menninger v. PPD Dev. LP (2022 U.S. Dist. LEXIS 138967 (D. Mass. Mar. 22, 2022))*

Plaintiff, hired in 2015, was an executive at a lab services company. Lisa's role was to provide operational leadership to the company's laboratory services. In 2017, Lisa was told that her role was going to change and involve increased client visits, social interactions, and presentations. This triggered Lisa's anxiety disorder, and she submitted a doctor's note to the company stating that the changes would make it "substantially more difficult, if not impossible, for Lisa to perform her job."

In response to the doctor's note, the company broke down the job duties into five different categories in order to allow the doctor to address how and to what extent Lisa could perform each task. The five categories were: (1) Senior leadership team presentations, Town Hall meetings, and meetings with the Chief Operating Officer and Executive Vice President (bi-weekly, monthly, and/or quarterly) [up to an audience of 500 people]; (2) client bid defenses, issue resolution calls, meetings in-person (at client site) or via phone (once a month at minimum per client) [up to an audience of 50 people]; (3) technical sales presentations (internal and external) (monthly, quarterly, and as-needed) [up to an audience of 100 people]; (4) meals and social interactions while at client visits (expected 60-80% of the time to build business relationships); and (5) travel (up to 30%).

The company reviewed and considered this information, concluding that while it would provide accommodations for two of the five categories by reducing travel expectations from 30% to 15% and by allowing Lisa to have a reader present for internal company meetings, it could not grant the proposed accommodations for categories 2, 3, and 4 because they involved functions central to Lisa's role and the company's needs. On the face, the company

conclusions made sense – Lisa was required to perform – with accommodation – all essential job functions, and the particular accommodation requests would have resulted in Lisa not doing so.

A few months later, Lisa informed the company that her doctor advised her to take medical leave. She remained on leave for the next eight months (six of which were fully paid), at which point the company terminated her employment.

Lisa sued the company for disability discrimination, claiming the company had failed to accommodate her disability by providing the reasonable accommodation she requested. The company moved for summary judgment, arguing that the facts of the case were not in dispute and that, as a matter of law, Lisa’s case had to be dismissed because her own doctor stated that she could not do the job and the accommodations requested were, by definition, not reasonable.

The motion was denied. The court said that while the company did establish that at least some of the meetings, public speaking, or client engagements were essential functions, a question still remained regarding the extent of those activities qualifying as essential. The court noted that Lisa could perform some of those tasks and “this is not the case where the record establishes that [she] could not perform this function at all.” Thus, whether the full extent of the functions described by the company qualified as essential presented a question for a jury.

Jury Verdict: After a two-week jury trial, the jury reached its verdict awarding Plaintiff \$1.565 million in back pay, \$5.465 million in front pay, \$5 million for past emotional distress, \$2 million for future emotional distress, and \$10 million in punitive damages. There were no applicable statutory caps the company could enforce.

2. *Schirnhof v. Premier Comp Solutions, LLC*, 832 F. App’x 121 (3d Cir. 2020)

Plaintiff began her employment at Premier in 2009 and was terminated on February 5, 2014. She was employed as an assistant in the billing department. During the course of her employment, she had good performance reviews. Ms. Schirnhof was diagnosed with anxiety and other mental health issues prior to her employment with Premier. Her condition was exacerbated in 2012 when her newborn grandchild died, and a co-worker with whom she was close left Premier. What followed was a series of interpersonal problems, and conflicts with and complaints about co-workers. Premier’s president and Ms. Schirnhof’s co-workers had referred to her as “Sybil” (referencing a character in the movie Sybil who suffered from mental health issues). The human resources representative noted that she should seek “medical attention.” Ms. Schirnhof eventually asked for reasonable accommodation in the form of two additional ten-minute breaks. She provided a letter from her physician regarding the need for such breaks to accommodate her Post Traumatic Stress Disorder and her Generalized Anxiety Disorder. Premier denied the request, and instead offered to move her work area. On a particularly bad day in February 2014, Ms. Schirnhof took to Facebook to vent her anxiety. She was terminated on February 5, 2014, for her Facebook posts in violation of Premier’s Social Media policy. Ms. Schirnhof sued, alleging that Premier had terminated her in retaliation for her request for accommodation, that Premier had discriminated against her in violation of the ADA, and that Premier had failed to provide reasonable accommodation.

Jury Verdict: The jury found that the employer had discriminated against the Plaintiff on the basis of her mental health disability, and in violation of the ADA. The jury awarded her \$285,000 in damages: \$35,000 in backpay, and \$250,000 in non-economic damages.

3. *Gravity Diagnostics, LLC v. Berling*, No. 2022-CA-0812-MR, 2023 Ky. App. Unpub. LEXIS 235 (Ct. App. Apr. 21, 2023)

The employee told his office manager a few days before his birthday that he did not want the office to host a birthday celebration for him due to his anxiety disorder; however, the office manager inadvertently did not relay the employee's request to the birthday party coordinator. On the day of the employee's birthday, he discovered a birthday party had been arranged for him in the break room, which triggered a panic attack that forced the employee to leave the office suddenly. The next day, the employee's supervisor and director of business operations confronted the employee about his reaction to the birthday party, where the employee began suffering from another panic attack and was sent home from work. Three days later, the employer terminated the employee, citing concerns that other employees had been frightened for their safety when the employee suffered the panic attacks.

The employee filed a disability discrimination lawsuit against his employer under KRS § 344.040, which prohibits employers from discharging an employee because the person is a qualified individual with a disability. The employee alleged, among other things, that his employer failed to reasonably accommodate his request to abstain from their usual practice of having birthday celebrations and failed to reasonably accommodate his request that his supervisor stop confronting him about his reaction to the birthday celebration. The employee also alleged that his requests were ignored and that he was terminated on the basis of his disability. The employer argued that the employee could not demonstrate that he had a disability that substantially limited a major life activity, and that they had a legitimate, nondiscriminatory reason for his discharge (i.e., workplace concerns for other employees' safety).

Jury Verdict: After a two-day trial, the jury returned the verdict in favor of the employee, finding that the employee had a defined disability; that he was able to perform the essential functions of his job with or without reasonable accommodations; and that he suffered an adverse employment action because of his disability. The jury awarded \$450,000, which included \$120,000 in lost wages and benefits; \$30,000 in future lost wages and benefits; and \$300,000 for past, present, and future mental pain and anguish. The employee was also entitled to recover attorneys' fees and costs.

4. *EEOC v. Ranew's Mgmt. Co., Inc.* Civil Action No. 5:21-CV-00443-MTT, U.S. District Court for the Middle District of Georgia (2022)

The claimant was a former employee of Ranew's Management Company, Inc., a provider of fabrication, coating, and assembly products. The claimant asserted a violation of the ADA after he was diagnosed with severe depression and was terminated. The employee had requested and been granted time off to recuperate, per his doctor's recommendation. When the employee tried to return to work and presented a doctor's release, he was fired by the company's CEO and told he couldn't be trusted to perform his job.

OUTCOME: The EEOC found that the employer's conduct violates the ADA, which prohibits discrimination based on a disability. The Parties entered into a consent decree resolving the lawsuit and the employer will pay \$250,000 in monetary damages to the employee, as well as agreeing to reporting, monitoring, training, creation and distribution of ADA policies, and notice posting.

5. *EEOC v. Hollingsworth Richards, LLC*, Civil Action No. 2:20-CV-02511, U.S. District Court for the Eastern District of Louisiana (2022)

Hollingsworth Richards, LLC, a vehicle and equipment dealership operator (d/b/a Honda of Covington) faced an ADA lawsuit in which an employee, who disclosed she had Attention Deficit Hyperactivity Disorder (ADHD) and was taking medication under the supervision of a healthcare provider. Her supervisor then asked her to stop taking her medications and ordered her to take a drug test. The employee was then discharged before confirmed test results were received.

OUTCOME: The EEOC filed its suit after first attempting to reach a pre-litigation settlement through its voluntary conciliation process. Under the three-year consent decree, Hollingsworth Richards will pay the sales representative \$100,000 in backpay and damages, and also conduct training, revise policies, provide regular reports to the EEOC, and post a notice that affirms its obligations under the ADA and states that employees can report violations to the EEOC.

6. EEOC v. Kaiser Foundation Health Plan of Georgia, Inc. Civil Action No. 1:19-CV-5484-AT, Civil Action No. 1:19-CV-5484-AT, U.S. District Court for the Northern District of Georgia (2021)

Kaiser Foundation Health Plan of Georgia, Inc., a managed health care provider (part of Kaiser Permanente organization) and faced an ADA lawsuit in which an employee, whose disabilities made it traumatic for her to access her workplace through revolving doors, had requested to use the available non-revolving doors as a reasonable accommodation. Kaiser refused and forced the employee to use the revolving doors. Notably, the court held that a reasonable accommodation need not relate to the performance of an essential function of the job; employees with disabilities are also entitled to accommodations to access the workplace and to enjoy the same benefits and privileges of employment as other employees.

OUTCOME: After the court ruled against Kaiser via summary judgment, Kaiser agreed to pay its former employee \$130,000 and enter into a consent decree under which it will train its employees on the ADA, make changes to its employment forms, and allow the EEOC to monitor how it handles future requests for accommodation under the ADA.

7. EEOC v. Lonza Am. LLC, Civil Action No. 1:20-CV-00311, U.S. District Court for the Eastern District of Tennessee (2021)

A pharmaceutical and medicine manufacturing company, Lonza America LLC, faced an ADA lawsuit in which a 14-year employee, a recovering opioid addict, was terminated after twice testing positive for a legally controlled substance. Lonza later learned the employee was a recovering opioid addict participating in a medication-assisted treatment program with a legal prescription for an opioid medication but forced him into counseling with a clinical psychologist and conditioned his return to work on discontinued use of the legally prescribed medication.

OUTCOME: Under the consent decree resolving the lawsuit, Lonza will pay \$150,000 in monetary damages to the employee. Lonza also agreed to provide ADA-related training.

8. EEOC v. Party City Corp., Civil Action No. 1:18-CV-00838-PB, U.S. District Court for District of New Hampshire (2019)

Party City Corp., a national discount and costume retailer, faced an ADA failure to hire lawsuit. The job applicant, a qualified individual with a disability (on the autism spectrum, severe anxiety) required a job coach as a reasonable accommodation for her disabilities. During the applicant's job interview, the hiring manager made disparaging comments and told the job coach present at the interview that Party City had previously had bad experiences hiring applicants who required job coaches. The job applicant and job coach explained to the hiring manager that the job applicant had been successful shadowing others in previous retail jobs, but the hiring manager was unmoved. The hiring manager tried to cut the interview short by telling the job coach in a patronizing tone, "Thank you for bringing her here," while the applicant was still in the room. The hiring manager also stated, in the applicant's presence, that the Party City employee who had encouraged the applicant to apply would hire anyone, "even hire an ant."

OUTCOME: The court found the ADA prohibits employers from discriminating based on disability and imposes a

requirement that employees with disabilities be provided a reasonable accommodation, absent undue hardship on the employer. One of these accommodations can be the use of a job coach. The EEOC filed its suit, after first attempting to reach a pre-litigation settlement through its conciliation process. In addition to the monetary relief of \$140,000, the three-year consent decree settling the suit enjoins Party City from discriminating against qualified applicants with job coaches in the future. The decree also requires Party City to revise and improve its reasonable accommodation policy; train human resource employees on the new policy and distribute it to all employees; report to the EEOC on all denials of employment to applicants with job coaches; and provide a notice regarding the decree to employees within the New England region, where the store at issue was located.

9. EEOC v. Greektown Casino LLC, Case No. 2:16-cv-13540, U.S. District Court for the Eastern District of Michigan (2019)

Greektown Casino LLC, a Detroit casino operator, faced an ADA lawsuit in which an employee requested an additional four weeks of extended leave following a stress-anxiety-related collapse on the job. Greektown denied the request and subsequently fired the employee after his leave under the Family and Medical Leave Act (FMLA) was exhausted.

OUTCOME: The EEOC found that the employer's conduct violates the ADA, which mandates that covered employers provide reasonable accommodations for the known disabilities of employees. As part of the consent decree settling the suit, Greektown will pay \$140,000 to the employee, and will all train supervisory and human resources employees on the requirements of the ADA.