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## Jury finds that employer was not at fault under the ADA

A jury recently found that a plaintiff was not qualified for a head clerk position with or without reasonable accommodation and the verdict was for the defendant. The plaintiff alleged that her employer had failed to reasonably accommodate her disability, and sued under the terms of the Americans with Disabilities Act (ADA).

### **The Case**

The plaintiff, Dawn Padilla, sued her employer, Dillon Companies, Inc. d/b/a King Soopers, for violation of the ADA and wrongful discharge in violation of public policy. She also sued for disparate treatment and reasonable accommodation.

Padilla was employed by King Soopers when she sustained an on-the-job injury. Her physician gave her a 10-pound lifting restriction, which she claimed was a disability under the ADA. She said she was limited in lifting, performing manual tasks, working and sleeping. After an 18 month leave of absence, King Soopers terminated Padilla's employment.

Padilla claimed that King Soopers retaliated against her for filing a workers' compensation claim and terminated her employment in violation of public policy. The defendant said that it did not discriminate against Padilla based on her medical condition and it was not reasonable to ask other employees to perform work for Padilla because of her alleged disability.

The jury found that Padilla was not qualified for the head clerk position with or without reasonable

accommodation. They determined that Padilla had a record of impairment under the ADA, but that Padilla did not request accommodation through reassignment or modification of her existing job.

The jury found that Padilla was not substantially limited in lifting, performing manual tasks, working and sleeping. They also found that Padilla had a record of impairment and King Soopers did not regard Padilla as disabled.

### **What This Case Means to Counties**

Title II of the ADA says that "no qualified individual with a disability shall, by reason of such disability, be excluded from participation or denied the benefits of the services, programs or activities of a public entity." The ADA specifies that states are not immune from prosecution for violations of this act under the Eleventh Amendment of the U.S. Constitution.

For more information, contact CTSI at 303-861-0507.