

Employers Should Not Ignore Accommodation Requests For Mental Health Conditions

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Considerable media attention has focused on *Berling v. Gravity Diagnostics*. In this Kentucky case, a jury awarded \$450,000 to an employee because his employer held a birthday party for him at the office, despite the employee's request not to do so. Many reports make light of the case or scoff at the plaintiff's credibility. However, employers should not view the case as a laughing matter. Instead, the case underscores the perils of ignoring the accommodation requests of those with mental disabilities.

Anxiety Disorder Triggered by Birthday Parties

Gravity Diagnostics in Covington, Kentucky, had a tradition of celebrating employee birthdays with parties during lunchtime. Plaintiff Kevin Berling has a diagnosed anxiety disorder and suffers from panic attacks. The plaintiff anticipated that if his colleagues held a birthday party for him, it would trigger a panic attack. About five days before his birthday, the plaintiff asked the office manager not to hold a celebration for his birthday. His request was ignored, and the party was held anyway. The party triggered a panic attack, leading the plaintiff to spend his lunch hour in his car.

The next day, company managers held a meeting with the plaintiff and chastised him for his response to the birthday party. During the meeting, he had another panic attack and engaged in alleged "violent" behavior. The plaintiff explained that the behavior, including clenching his fists and telling his supervisor to be quiet, was to prevent the panic attack from escalating and was not intended to threaten his managers. Plaintiff was told to go home, and a few days later, he was fired on the grounds of workplace safety. He sued Gravity Diagnostics for disability discrimination, in other words, failure to accommodate his anxiety disorder condition, and retaliation because of the termination.

Employer Lessons

Anxiety disorder is a commonly diagnosed condition that may qualify as a disability and should not be minimized. Lesson one is that any employee accommodation request should not be ignored, even if the employer believes it is trivial or silly. In this case, it is clear that the office manager should have cancelled the birthday party. However, the employer's mistakes did not stop at failing to cancel the party, and the managers' actions worsened the situation. Lesson two is that an employer should not rush to punish an employee for disability-related behavior. Instead of apologizing for the office manager's failure to cancel the party or simply letting things go, the employer called the plaintiff into a meeting and chastised the plaintiff for his disability-related behavior, that he declined to attend the party. Lesson three is that terminating an employee for engaging in arguably disability-related behavior, in this case alleged symptoms of his meeting panic attack, is extremely risky and may result in litigation against the employer.

TAKEAWAY: Requests regarding accommodation for mental disabilities must be treated as seriously as those for physical disabilities. If you are an employer and need help navigating employee disability accommodation requests or any other federal or New Jersey employment law, contact [Stephanie Gironda](#) or any member of the Wilentz [Employment Law](#) Team.

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