

# The Legal Intelligencer

THE OLDEST LAW JOURNAL IN THE UNITED STATES 1843-2014

PHILADELPHIA, WEDNESDAY, JANUARY 8, 2014

VOL 249 • NO. 5

An **ALM** Publication

## Workers' Compensation Release Too Narrow to Waive ADA Claim

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*Special to the Legal*

The relationship between workers' compensation law and potential claims under the Americans with Disabilities Act seemed as though it was the topic of every third column in this space for years. As employers have lived with the requirements under the various statutes for more than a decade, other topics have moved to the forefront; but, once in a while a case reminds all of us that the laws remain intertwined.

In *Canfield v. Movie Tavern*, No. 13-03484, 2013 U.S. Dist. LEXIS 173877 (E.D. Pa. Dec. 12, 2013), the court addressed a number of issues, including whether an employee waives claims under the ADA or Pennsylvania Human Relations Act by settling his workers' compensation claim in the form of a compromise and release (C&R). The court also addressed whether disability claims under the PHRA are considered under the same standard as those under the post-amendment ADA (the ADAAA).



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### BACK INJURY REQUIRES LEAVE

Michael Canfield was the kitchen manager at Movie Tavern (MT), a cinema and restaurant chain, when he injured his back in late November 2011. After rest and a brief return to work (without restrictions), Canfield underwent an MRI in late December that showed that he had a herniated disc. He went to MT's occupational doctor, who returned him to the workplace with "light duty" restrictions, according to the opinion.

MT, instead, placed Canfield on a leave of absence until he could work without restrictions, which he was able to do Feb. 23, 2012. He received workers' compensation benefits during his absence from the workplace, dating back to November, the opinion said. A few

days after his return to work, however, Canfield reinjured his back and was again restricted to "light duty." MT, again, said that it was unable to accommodate Canfield's restrictions. His workers' compensation benefits were reinstated March 20. On March 21, Canfield was terminated for having discriminated against Hispanic employees in the workplace, the opinion said. He brought suit, claiming that the real reason for his discharge was his disability and retaliation for having filed workers' compensation claims.

### C&R TOO NARROWLY DRAWN

MT moved to dismiss the complaint. Its first argument was that Canfield's execution of a C&R for his workers' compensation claim waived his right to pursue his disability discrimination claims under the ADA and PHRA. In support of this assertion, MT relied upon a recent decision of the U.S. District Court for the Eastern District of Pennsylvania, *Hoggard v. Catch*, 2013 U.S. Dist. LEXIS 95181 (E.D. Pa. July 9, 2013).

In *Hoggard*, the court found that general release language in the

C&R, resolving “all claims and issues arising out of [the] injury,” as well as an acknowledgement that the C&R “forever ends [the claimant’s] entitlement to any and all such benefits for the injuries,” satisfied the “totality of the circumstances” inquiry used by courts in the Third Circuit to determine whether a contract, such as a release, is valid.

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In contrast to the *Hoggard* release, the MT release signed by Canfield did not include the type of “general all-encompassing language” that could be read as relating to Canfield’s ADA and PHRA claims. In fact, the MT release was limited exclusively to Canfield’s “workers’ compensation claims,” the opinion said. As such, MT’s waiver argument was rejected.

MT next argued that Canfield’s temporary back condition did not rise to the level of a “disability” under the ADA. MT, however, relied upon pre-ADA cases to support this argument, which the court found inapplicable. Rather,

the “proper analysis simply asks whether plaintiff’s injuries substantially limit a major life activity.” In light of Canfield’s assertion that he was restricted from performing work that required him to bend over, twist or lift over 10 pounds, the court found that he had alleged an impairment that was “substantially limiting” under the statute.

### **ADAAA AND PHRA HAVE DIFFERENT STANDARDS**

Both MT and Canfield stated to the court that the ADA and PHRA were subject to the same analysis and standards, according to the opinion. The court found, however, this not to be the case. Specifically, while “prior to the ADA, claims under the ADA and PHRA were analyzed together because the PHRA and ADA definition of terms such as ‘handicap or disability’ were substantially similar ... the same cannot be said for the PHRA and ADA.” This is because the PHRA has not been amended in the same manner as the ADA, “necessitating separate analysis” of the claims.

In effect, under the separate PHRA-disability analysis, the court considered the same pre-ADA cases that it had found irrelevant to the previous argument. For employers and defense counsel, this pre-ADA analysis would be like greeting a long-lost friend. MT argued, for instance, that Canfield’s 10-pound lifting limitation “does not render [him] sufficiently different from the general population such that he is substantially limited in his ability to lift.” The court agreed, but found the argument more appropriately

raised in a motion for summary judgment, rather than at the 12(b)(6) motion to dismiss stage.

### **RETALIATION CLAIM VIABLE**

Finally, MT moved to dismiss Canfield’s claim that he was discharged in retaliation for having filed for workers’ compensation. MT argued that there was no causal connection between Canfield’s claim for compensation and his discharge based upon his receipt of benefits in November, roughly four months before his termination, the opinion said. Canfield argued that the requisite causal connection was established by the one-day gap between his receipt of benefits March 20 and his termination March 21. The court found that while a four-month gap would be insufficient to establish the type of “temporal proximity” upon which a causal connection could be based, a one-day gap was “unduly suggestive” of a retaliatory motive. Again, with facts in question, the argument was best addressed at the summary judgment stage.

This case has, as they say, something for everyone. Employers will want to ensure that language used in a C&R is sufficiently broad to encompass all of an employee’s potential claims. Defense counsel should note the differences between the ADA and PHRA. And counsel for employees will continue to focus on the relatively low pleading standard necessary to defeat a 12(b)(6) motion to dismiss. •