

SPECIAL REPORT ON SUPREME COURT ADA RULINGS

The Americans with Disabilities Act (ADA) has resulted in a flood of litigation brought by employees. Plaintiff's lawyers have often been successful in characterizing a medical condition as a "disability" entitled to the protection of the ADA, even though it was not the type of medical condition which the law was initially intended to cover. But now, the U.S. Supreme Court, in *Toyota Motor Manufacturing, Kentucky, Inc. v. Williams*, No. 001089, has made it clear that only employees whose impairments really affect their life in a substantial way are covered.

Under the ADA, a "disability" is defined as:

- a physical or mental impairment that substantially limits one or more major life activities;
- a record of such an impairment; or
- being regarded as having such impairment.

The EEOC has broadly defined what constitutes "major life activities." In addition to the types of activities one would expect to be covered by a law protecting individuals with disabilities (e.g., walking, seeing, hearing and speaking), the EEOC regulations also state that "performing manual tasks" and "working" are major life activities. Based on the EEOC's expansive view of a disability, a Toyota employee with carpal tunnel syndrome claimed that she was entitled to the protections of the ADA. The employee was able to lead a "normal" life, but she contended that she was substantially limited in performing manual tasks required by her job.

The Court indicated that major life activities are those that are "central to daily life," and that an impairment cannot be "substantial" if it interferes with an individual's activities in only a minor way. According to the Supreme Court, evidence that the employee was able to brush her teeth, wash her face, bathe, tend her flower garden, fix breakfast, do laundry and pick up around the house should have been considered in determining whether the employee had a disability. The case was therefore sent back to the Appeals Court to determine

whether Toyota was entitled to restoration of the lower court's decision in its favor.

ADA CHECKLIST

Although the Supreme Court has now clarified the law so that employers have a better chance to prove that an employee's medical condition does not constitute a disability protected by the ADA, the Toyota decision does not mean that only individuals who cannot see, speak, talk or walk are protected by the ADA. There will still be numerous types of impairments that courts or state human rights agencies will find to be covered. Before an employer disciplines or terminates any employee for reasons related to physical or mental health problems, a thorough review of the employee's situation must be conducted. A similar review should be done when an employee requests an accommodation, such as a change in work schedule or duties. Ask the following questions:

- Does the employee currently suffer from any medical condition?
- Does the employee's file contain any information about medical or psychological conditions?
- Was the employee treated for any medical condition in the past?
- Does someone associated with the employee have a medical condition or psychological impairment?
- Has the employee been injured, either on or off the job?
- Has the employee had psychological problems such as depression or anxiety?
- Has the employee asked for any accommodation?

If your answer to any of these questions is yes, further review should be done to determine whether the employee is covered by the ADA or other employment laws. If the employee has a medical problem, the condition must be analyzed to ascertain if it substantially limits the employer in regard to activities that are central to daily life.