

ADA Update: Takeaways from Pro Se Reasonable Accommodation Complaint

[Rayford v. Walmart Stores](#)

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Under the Americans with Disabilities Act (ADA), employers must provide reasonable accommodations to the known disabilities of otherwise qualified employees unless this causes an undue hardship. 42 U.S.C. § 12112(5). In many cases, disability-related requests for assistance may be best handled informally by immediate managers working closely with their employees. Managers who are not trained in the requirements of the ADA, however, may not understand that employees with disabilities may be entitled to something more and different than what is required by employers' normal policies and practices.

See Holly v. Clairson Industries LLC, 492 F.3d 1247, 1262-1263 (11th Cir. 2007) *quoting US Airways, Inc. v. Barnett*, 535 U.S. 391, 397-98 (2002) (“[P]references will sometimes prove necessary to achieve the Act's basic equal opportunity goal. The Act requires preferences in the form of “reasonable accommodations” that are needed for those with disabilities to obtain the same workplace opportunities that those without disabilities automatically enjoy. By definition any special “accommodation” requires the employer to treat an employee with a disability differently, i.e., preferentially. And the fact that the difference in treatment violates an employer's disability-neutral rule cannot by itself place the accommodation beyond the Act's potential reach.”)

In an effort to shield themselves from liability caused by the failure to adequately train line level managers, employer's policies sometimes require employees to consult directly with human resources when requesting accommodations. A recent decision by a district court in Alabama suggests that such policies may themselves violate the ADA.

In *Rayford v. Walmart Stores, Inc.*, 2017 U.S. Dist. LEXIS 103363, Civil Action No. 15-0658-WS-B (S.D. Al. 7/5/17), a *pro se* case filed under the ADA, the Plaintiff had ulcerative colitis that required emergency trips to the restroom during flare-ups. Plaintiff allegedly asked her manager to be assigned to the registers closest to the restrooms which “were less busy than other registers and more likely to have interludes with no one in line, during which a cashier could turn off the light, log out and go to the restroom.” Walmart defended the manager's refusal to accommodate this employee by asserting that its policy required her to personally make a request for accommodation to Human Resources, which she allegedly did not do. In denying Defendant's Motion for summary judgment on this issue, the Court noted that Walmart's written policy appeared to make managers responsible for contacting Human Resources upon receiving a request for accommodation.

Significantly, however, the Court found that even if the Defendant had accurately described its policy, the refusal to accommodate could not be justified by the mere failure to follow formalities:

“Even were the defendant's construction of the policy correct, it has failed to show that a policy of ignoring a known request for reasonable accommodation made to line management merely because the employee did not repeat the request directly to the human resources department would comport with the ‘interactive process’ mechanism contemplated by the ADA.”

Rayford v. Walmart Stores, Inc., 2017 U.S. Dist. LEXIS 103363 at *9.

Given this decision, employers may wish to provide additional training to line managers on the requirements of the ADA and to amend their policies to require managers to report reasonable accommodation requests to human resources.