

NEW CASE: Reliable Employee Attendance is Still Essential Says Fourth Circuit Court

Hiring decisions are routinely based on an applicant's skills and ability to regularly perform required tasks. An occasional absence or late arrival isn't cause for alarm or action, but when bad behavior continues, how many accommodations should a company make?

In [*Hannah P. v. Coats*](#), the Fourth Circuit court ruled in one company's favor—even though the employee's attendance issues were related to depression.

From Excellent to Erratic

In 2011, the Office of the Director of National Intelligence (DNI) hired Hannah as an operations analyst for a five-year term. Although she was diagnosed with depression early in her tenure, and shared that information with multiple supervisors, she required no accommodations and was a "[*high-performing employee*](#)." Unfortunately, in her fourth year with DNI, she frequently arrived late and was unavailable when needed. Her supervisors counseled her, but the problems persisted, so they referred her to the Employee Assistance Program (EAP) for voluntary, job-related counseling.

Despite participating in EAP, Hannah's attendance didn't improve, and she eventually sought, and received, medical leave. Even though she applied for several permanent positions with DNI before going out on leave, she was not offered a position, and her employment ended at the conclusion of her five-year term.

The Claims and Outcomes

Even though DNI made attempts to assist Hannah, she ultimately filed claims asserting that the company made no accommodations for her mental illness, forced her to undergo an illegal medical exam, and refused to offer her a permanent position. The Court ruled in DNI's favor on all accounts for the following reasons.

- DNI offered reasonable accommodations.
- Hannah's participation in EAP was voluntary and appropriate because it was "job-related and consistent with business necessity."
- It was appropriate for DNI to reject Hannah's full-time employment requests because she was not coming to work regularly.

Ultimately, the court recognized that while Hannah may have been an exemplary employee at one time, DNI was within its rights to consider her attendance, which was "not consistent with a potentially good employee," when filling its full-time positions.

The Takeaway

Regular attendance is a necessity in every workplace, but disability-related attendance problems may prove challenging.