



Clarification on the Extent of the “Interactive Process” Under the Americans With Disabilities Act

BY Meg Vergeront, Partner, Stafford Rosenbaum LLP

A recent case issued by the federal Seventh Circuit Court of Appeals (which governs employers in Wisconsin) underscores the importance of engaging in an interactive process with a disabled employee who has asked for a reasonable accommodation under the Americans With Disabilities Act (ADA).

In *Hoppe v. Lewis University*, an employee claimed that she suffered from a disability, and sought a reasonable accommodation from her employer. The employer offered three accommodations, each of which the employee rejected. The employer also sought additional medical information from the employee to help it find an appropriate accommodation that might be acceptable to the employee. The employee refused to cooperate. Under these circumstances, the court determined that the employee could not prevail on her ADA claim because she had thwarted the “interactive process” through which employers and employees can arrive at a reasonable accommodation, in turn thwarting the employer’s ability to offer an appropriate accommodation. The court noted with approval that the employer had continued to make efforts to accommodate the employee despite the lack of information provided.

The ADA “interactive process” involves back and forth discussions between the employer and a disabled employee in an effort to find an appropriate accommodation. An employee who refuses to engage in the process will usually lose her ADA claim. By the same token, the employer who refuses to do so will likely be found liable under the ADA if no reasonable accommodation is ultimately found. Engaging in good faith in the interactive process is a good way to help protect employers from liability under the ADA. Never refuse to talk to an employee about possible accommodations. That way, if the process fails, it is through the fault of the employee and not you.



Wisconsin County Mutual Insurance Corporation



About the County Mutual:

The Wisconsin County Mutual Insurance Corporation is dedicated to serving Wisconsin counties and local governments and the people they serve by providing long-term stability in insurance coverage, while controlling these costs.

What makes the County Mutual unique is our close working relationships with our member counties. Acting in collaboration, the County Mutual and county owners work as a team to aggressively control their claims costs by promoting quality risk management efforts that are second-to-none in the industry.

What started as a handful of counties joining forces in the midst of an insurance crisis in 1988 has grown to close to 75% of Wisconsin’s counties being insured by the County Mutual today.

Working together, we truly are a **Mutual Effort.**



About Stafford Rosenbaum, LLP:

Headquartered in Madison, WI, Stafford Rosenbaum LLP serves clients around the United States and all over the world. Started in 1879, the firm has a long history of providing accessible legal solutions with a strong commitment to the highest standards of legal ethics and professionalism.

Stafford Rosenbaum, LLP serves members of the Wisconsin County Mutual Insurance Corporation by providing expert legal representation to Wisconsin public entities on matters relating to public utility, government and administration, employment and labor law, and environmental law, as well as strategic defense and pre-litigation coverage analysis.

Address: Madison:
222 West Washington Ave
Suite 900
PO Box 1784
Madison, WI 53701-1784

Milwaukee:
1200 N. Mayfair Rd.
Suite 430
Milwaukee, WI 53226

Phone: Madison: 608-256-0226
Milwaukee: 414-982-2850

Web: www.staffordlaw.com