



## And The Defense Wins

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On February 22, 2012, DRI member [Ryan Brown](#), partner in the Chicago and St. Louis offices of **Gordon & Rees**, secured summary judgment for the firm's hospital client in the U.S. District Court for the Central District of Illinois (Urbana Division). In a 21-page Opinion and Order, Chief Judge McCusky adopted each of the hospital's arguments, while rejecting plaintiff's claims of disability discrimination and retaliation under the Americans with Disabilities Act.

The plaintiff, a former nursing assistant and clerk, alleged that she was harassed and discriminated against by her supervisor following a stroke in January 2009, and that she was later terminated in retaliation for complaining to the hospital's director of human resources about the harassment and discrimination. Further, the plaintiff alleged that the hospital failed to reasonably accommodate her disability (i.e., lapses in concentration, slurred speech and vision impairment allegedly resulting from her stroke), and instead, instituted heightened performance standards after her stroke and after she complained to the human resources director.

The court agreed with the arguments advanced by Gordon & Rees that the plaintiff was not a "qualified individual with a disability" under the ADA, as she failed to present sufficient evidence of a physical or mental impairment that "substantially limit[ed]" the major life activities of concentrating and thinking. Further, the court concluded that the plaintiff was not "regarded as" having a disability by the hospital because she had been authorized by her doctor to return to work without limitations following the stroke, and because the plaintiff admitted during discovery that her complaints to the human resources director referenced "unfair" and "unprofessional" treatment, rather than "disability discrimination."

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