

Nurse Suspended, Unable To Wash Hands: Court Throws Out Disability Discrimination Lawsuit.

A nurse's supervisor suspended her for a month after the nurse fell on the ice in her own driveway at home and needed to wear a hand splint prescribed by her physician for a broken index finger. The reasons her supervisor gave for suspending her were time off to heal from her injury and time off as discipline for her co-workers' complaints of lack of professionalism.

The nurse sued for disability discrimination, claiming that her supervisor's reaction to her co-worker's complaints was just a pretext for disability discrimination over her hand injury.

The hospital countered the lawsuit by arguing that the splint the nurse was wearing prevented her from washing her hands, handwashing perhaps dozens of times each day being a legitimate

The threshold question in any disability discrimination lawsuit is whether the employee has a disability as disability was contemplated by the Americans With Disabilities Act (ADA).

A nurse who must temporarily wear a hand splint due to an injury from falling on the ice does not have a disability.

The court does not have to resolve any other issues.

UNITED STATES COURT OF APPEALS
THIRD CIRCUIT
February 8, 2006

and indispensable occupational requirement for a hospital nurse.

The US Court of Appeals for the Third Circuit pointed to a simple legal rationale for dismissing the case: the nurse did not have a disability.

A temporary medical condition, even if it prevents an employee from doing one particular job, is not a disability unless it substantially impairs a major life activity. Impairment of a major life activity is the terminology used in the ADA to rule out relatively minor temporary conditions like this from being considered disabilities. Reasonable accommodation is not necessary and a discrimination lawsuit is not possible when there is no disability. **Vierra v. Wayne Memorial Hosp., 2006 WL 288665 (3rd Cir., February 8, 2006).**