



## The Seventh Circuit Holds That The ADA Is Not An Open-Ended Extension Of The FMLA

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On September 20, 2017, the Seventh Circuit held that multi-month leaves of absence, even those that are definite in term and sought in advance, are not required by the Americans with Disabilities Act (ADA). In *Severson v. Heartland Woodcraft, Inc.*, the Plaintiff was granted twelve weeks of leave for a back condition under the Family and Medical Leave Act (FMLA). Two weeks before the expiration of his FMLA leave, the plaintiff informed the company that he would need surgery and that the typical recovery time for the surgery was at least two months. The company terminated the plaintiff's employment upon the expiration of his FMLA leave, and invited him to reapply when he was medically able to return to work. The plaintiff filed a lawsuit claiming that his employer failed to reasonably accommodate him under the ADA. The Court held that an "[i]nability to work for a multi-month period removes a person from the class protected by the ADA" and that "the ADA is an antidiscrimination statute, not a medical-leave entitlement." This decision is a significant departure from the Equal Employment Opportunity Commission's (EEOC) stringently held position that long-term leaves are a required form of reasonable accommodation, and efforts by the EEOC to limit or overturn the ruling in the future are likely. Although a precedent-setting decision in the Seventh Circuit, employers should not assume that this same ruling will apply in other jurisdictions and should continue to evaluate leave requests on a case-by-case basis, particularly where the Court left open the possibility that a brief period of leave – "a couple of days or even a couple of weeks" – could be a reasonable accommodation in some circumstances. Notwithstanding the Seventh

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Circuit's narrow interpretation, the EEOC may likely continue to pursue charges under the ADA where the employer rejects leave requests for specific time periods following expiration of an employee's FMLA leave.