

## LEGAL CASE CENTERS ON WHETHER OR NOT EMPLOYEE CAN PERFORM DUTIES WITH ACCOMMODATION



A woman claimed that her former employers violated the Americans with Disabilities Act (ADA) by firing her. But the company countered by stating that she couldn't perform "essential functions" of the job even with reasonable accommodations. They took their arguments to court. The employee worked as a production technician for First Quality Retail Service, a manufacturer of disposable diapers and other products. She injured her wrists at work, and carpal tunnel syndrome necessitated surgery on her right wrist. She performed light duty work for several months, including sweeping and paperwork. The employee's physician noted that her restrictions would be permanent if she did not undergo additional surgery. First Quality offered to provide her with worker's compensation leave and benefits, but she refused. The woman sent a letter to First Quality, listing accommodations so that she could perform essential job duties – a rotating schedule, in which she would work for 15 minutes, then rest for five minutes; providing her with a step platform; or possible reassignment. After she had been on leave for 180 days, an HR rep asked if she wished to request an extension. She responded by sending a work status report indicating that she had medical restrictions. The company determined that it had no openings to accommodate her restrictions and subsequently terminated her. The woman sued, alleging disability discrimination. First Quality replied by asserting that the former employee was not a qualified individual under ADA standards – a qualified individual is a disabled person who can perform essential functions with or without accommodations. The description for the job she'd held had specified lifting, operating equipment, frequent upper arm movement and repetitive tasks, and she had admitted to being unable to perform such duties. The district court ruled in favor of First Quality, noting that lifting and repetitive hand use were essential to the job, and the woman couldn't perform the duties even with accommodation. The woman appealed, arguing that the job description didn't exist before she was placed on leave and that the company was legally required to provide light duty work. But essential functions are not determined only on job descriptions, and the woman herself testified as to what the job most often entailed. As to light duty work, First Quality offered it only to employees on a temporary basis for work-related injuries, and the company was not required by the ADA to provide light duty work for any of its workers. The key issue was whether or not the plaintiff was qualified under the ADA. Appellate judges looked at each of her suggestions for accommodation. She hadn't showed how the rotating schedule or step platform would help her with repetitive movement, so even if they were provided, she still would be unable to perform necessary duties. As to reassignment, First Quality was under no legal obligation to find another position for her within the company. In reply to First Quality's motion for summary judgment, the woman had made an argument for a hostile work environment. But she hadn't included such an allegation in her initial claim, so the district court did not make a ruling on it. She addressed it in her appeal, but judges dismissed it as it had not been previously considered. The grant of summary judgment was affirmed.