

## DID UNIVERSITY FAIL TO ACCOMMODATE CUSTODIAN?

# PURDUE UNIVERSITY

A former custodian at Purdue University in Indiana filed a complaint in court against the university and one of its administrators. He alleged retaliation and violations of Title VII of the Civil Rights Act, the Americans with Disabilities Act (ADA), and his due process rights in relation to his job at Purdue. The man, a Bulgarian, began working at the university as a Service Worker III in 1998. His duties included cleaning "The Oasis" area in the Purdue Memorial Union, but in February of 2004, he was moved to the supermarket area and west stairs. These new areas required different cleaning products, which the employee claims incited chemical allergies and injuries. More specifically, the chemicals caused difficulty breathing and a general weakness. His requests to return to the products that he had previously used were denied by his supervisor. In March, the man was issued warnings for sleeping on the job, but he alleged that he had fallen and was rendered unconscious by the new chemicals. The university recommended that the employee see a physician, whose report was "inconclusive" but who advised that the man not use the cleaning products. The man claims that he was required to continue working with the chemicals, an allegation denied by his supervisor in court. After a second visit, the physician recommended that the employee avoid working with any chemicals or chemical fumes. Documentation was sent to the university, and the employee did not work for the next four months. The man filed a grievance in October, believing that he could return to work utilizing an alternate cleaning product. His employers complied, and he continued working in his assigned areas with another chemical until March of 2006. During that time, however, he was issued a letter for committing "unsanitary safety food violations" and warned against sitting on the job. With regard to the latter, the man claimed an allergic reaction to the chemicals,



though he was no longer using the earlier product.

The cleaning department was then reassigned, and the employee was given a position and shift that he did not want. The employers informed him that he was given the only job available that did not use the product in question. The following six months entailed arguments over the man's restrictions and specific medical documentations. His employment was terminated, however, because he had not worked on what he believed was his day off. He alleged in his complaint that Purdue University did not accommodate him for his disability, denied him opportunities because he was Bulgarian (more favorably treating non-Bulgarian employees) and retaliated against him for filing a complaint with the Equal Employment Opportunity Commission (EEOC). A district court granted summary judgment for the university because the man failed to prove retaliation, pretext or discrimination based on his nationality. The university was likewise entitled to sovereign immunity with respect to the claim of an ADA violation. On appeal, the man claimed that his discharge was "improper," but he neither cited an error from the district court nor any legal evidence. Accordingly, his appeal was dismissed.