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## Recent Americans with Disabilities Act (ADA) Decision Might Signal Broadening of the ADA's Accommodation Provisions

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The United States Court of Appeals for the Fifth Circuit recently held that accommodations under the Americans with Disabilities Act (ADA) are not limited to job modifications that enable an employee to perform essential job functions. In *Feist v. Louisiana*, a former assistant attorney general for the Louisiana Department of Justice (LDOJ) sued the LDOJ claiming that it discriminated against her in violation of the ADA by declining to provide her with a free on-site parking space to accommodate her disability (osteoarthritis of the knee). Siding with the employer, the trial court dismissed the case holding that the plaintiff failed to explain how the denial of on-site parking limited her ability to perform “the essential functions” of her job.

The Court of Appeals reversed the trial court’s decision, holding that the text of the ADA does not indicate that an accommodation must facilitate the essential functions of an employee’s position. The court also relied on federal regulations (which the LDOJ argued were not entitled to deference) which provide that reasonable accommodations may include modifications or adjustments that enable a covered entity’s employee with a disability to enjoy equal benefits and privileges of employment as are enjoyed by its other employees without disabilities. The court did not express an opinion on whether the employee’s request for a free on-site parking space was “reasonable” under the ADA, but left that determination to the trial court on remand.

This case may indicate a willingness of courts in future cases to broaden the scope of accommodations beyond what employers currently believe are required by the ADA. Until more courts weigh in on the question, employers should tread carefully and seek legal counsel when responding to requests for accommodations that seem unrelated to an employee’s ability to perform his or her job functions.

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