

Eighth Circuit Holds that ADA Compensatory Damages Claims Survive Employee's Death



Article By
[Andrew M. McKinley](#)
[Polsinelli PC](#)
[Polsinelli At Work](#)

- [Labor & Employment](#)
- [Litigation / Trial Practice](#)
- [8th Circuit \(incl. bankruptcy\)](#)

Saturday, January 28, 2017

On January 19, 2017, the U.S. Court of Appeals for the Eighth Circuit determined that a claim for compensatory damages under the Americans with Disabilities Act (“ADA”) survives the death of the aggrieved party. In *Guenther ex rel. Guenther v. Griffin Construction Co.*, an employee learned that cancer had spread throughout his body and informed his employer that he would need three weeks’ leave to undergo radiation therapy. Rather than accommodate this request, the employer terminated him and immediately cancelled his insurance policies. The employee then filed a timely charge of discrimination with the Equal Employment Opportunity Commission (“EEOC”).

While the EEOC charge was still pending, the employee passed away. The special administrator of the employee’s estate subsequently received a right-to-sue letter from the EEOC and filed suit on the employee’s behalf. The district court dismissed the suit, adopting the state tort survival statute as the federal rule of decision and holding that the employee’s ADA claim abated at his death. The Eighth Circuit reversed.

After determining that the issue of claim abatement under the ADA is governed by federal common law, the Eighth Circuit faced the question of whether it should adopt

a uniform rule of survivability under the ADA or instead utilize state law. The *Guenther* court first looked to Congress's purpose in passing the ADA, which was to provide a comprehensive national mandate with clear, strong, consistent, and enforceable standards for addressing disability-based discrimination. Against that backdrop, the court made two salient observations: First, the abatement of ADA claims would pose a special threat to the ADA's enforcement. Indeed, unlike other civil rights protections, the very nature of the ADA is a matter that could lead to the death of a party before a case is complete, as a result of the same health issue that provided him with protections under the statute. Second, a uniform federal rule would ensure consistent and evenhanded application of the ADA's provision, while the application of state law may present an absolute barrier to a plaintiff (or his estate), irrespective of his diligence in asserting his rights, depending on his residency.

Consequently, the *Guenther* court held that federal law did not incorporate state law to determine whether claims for compensatory damages under the ADA survive upon the death of the aggrieved party. Instead, the court held that an individual's estate could bring such claims in the place of the decedent.

© Polsinelli PC, Polsinelli LLP in California

Source URL: <https://www.natlawreview.com/article/eighth-circuit-holds-ada-compensatory-damages-claims-survive-employee-s-death>