

## **Summary Judgment Review**

**Case Name:** *Equal Employment Opportunity Commission v. Kaiser Foundation Health Plan of Georgia, Inc.*

**Nature of the Order:** Magistrate's Report & Recommendation

**Magistrate Judge:** Walter E. Johnson

**District Judge:** Amy Totenberg

### **Claims & Outcomes:**

1. **Claim:** ADA – Reasonable Accommodation
  - a. **Outcome:** Recommend Granting Plaintiff's Motion for Partial Summary Judgment as to liability; Denying Defendant's Motion for Summary Judgment

**Whether R&R Followed:** N/A

### **Long Summary**

Sharion Murphy, represented by the EEOC, suffers from claustrophobia and post-traumatic stress disorder. In October 2016, Defendant Kaiser relocated Ms. Murphy and many other employees to a new facility where all employees entered through revolving doors. In late 2016, Ms. Murphy was exiting through one of such doors when a co-worker entered the same compartment, temporarily trapping both employees. The incident was traumatic for Ms. Murphy, and she began using a non-revolving door to enter the facility.

In late January 2017, after being told that she was required to use the revolving doors, Ms. Murphy provided a doctor's note to Kaiser indicating that she had been diagnosed with claustrophobia and could not use such doors. On March 17, 2017, following a request from the Operations Manager, Clifton Hester, Ms. Murphy submitted a Job Accommodation Form again indicating her inability to use the revolving doors. Kaiser then contacted Ms. Murphy's doctor to determine whether Ms. Murphy required an accommodation. Ms. Murphy's doctor was out of the office, so another doctor responded to Kaiser's request. This doctor indicated that Ms. Murphy suffered from claustrophobia and needed to avoid using the revolving door, but also failed to respond to several legally relevant questions, including whether Ms. Murphy was substantially limited in any major life activity and whether her disability limited her ability to perform her job. Kaiser denied Ms. Murphy's accommodation requests. Ms. Murphy sent an updated Job Accommodation Request Form to Kaiser on May 20, 2017, this time completed by her original doctor, which Kaiser approved.

Plaintiff moved for partial summary judgment on liability, asserting that Kaiser violated its duty to accommodate Ms. Murphy's disability by its six-month delay in granting her request. Kaiser moved for summary judgment in its favor.

The Court first found that Ms. Murphy was disabled and a “qualified individual” under the ADA. It then analyzed whether Kaiser failed to provide a reasonable accommodation. Plaintiff argued that the ADA imposed upon Kaiser an accommodation duty to make its facility “readily accessible to and usable by individuals with disabilities.” *See* 42 U.S.C. § 12119(A). Finding no applicable Eleventh Circuit authority, the Court turned to cases from the First and Fifth Circuits. Under these cases, the Court found that Kaiser was required to make the facility accessible to Ms. Murphy, and that “this obligation could easily have been met by allowing plaintiff to use a non-revolving door within a reasonable time after she made that request.”

The Court then analyzed 29 C.F.R. § 1630(o)(1)(iii), an EEOC regulation. Finding no Eleventh Circuit authority on point, the Court turned to other jurisdictions in finding that this regulation “required an employer to make modifications that enable an employee with a disability to enjoy benefits and privileges of employment equal to those enjoyed by non-disabled employees.” Additionally, the Court noted that courts applying 42 U.S.C. § 12119(A) and 29 C.F.R. § 1630(o)(1)(iii) hold that employers cannot limit reasonable accommodations to those that facilitate an employee’s performance of essential job functions. Accordingly, Kaiser was obliged under the ADA and EEOC regulations to accommodate Ms. Murphy without first determining whether her disability impacted her ability to perform the essential functions of her job.

Judge Johnson, therefore, recommended GRANTING Plaintiff’s Motion for Partial Summary Judgment as to liability and DENYING Defendant’s Motion for Summary Judgment.