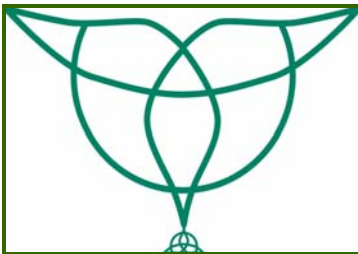




Triquetra Law

Dedicated to justice, Responsive to you.

March 2008
Volume 3, Issue 1



Inside this issue:

Article	Page
<i>The “ABCs” of the ADA</i>	1
<i>Stacey Snovel joins Triquetra</i>	1
<i>Update on the Family Medical Leave Act</i>	2
<i>Asking Your Employer to Accommodate a Disability; and COBRA</i>	3
<i>About Triquetra Law Offices</i>	4

The “ABCs” of the Americans with Disabilities Act

By Sharon R. López, Esq.

On March 17, 2008 Elliot Spitzer stepped down and a man who is blind was sworn into the highest executive office in the State of New York, [David Patterson](#). There was a time when blindness prevented people from working, much less running a whole state. This amazing cultural change occurred because disability advocates worked for it.

The [Americans with Disabilities Act](#) (ADA) was signed into law nearly 18 years ago (1990) by George H. Bush. President Bush described the ADA as:

"the world's first comprehensive declaration of the equality of people with disabilities, and evidence of America's leadership internationally in the cause of human rights." The ADA provides independence and freedom so even a man who is blind can become governor.

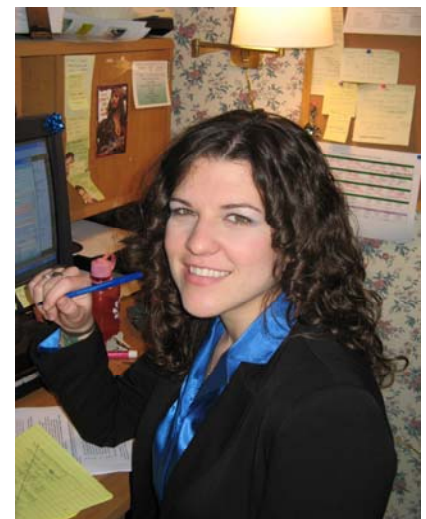
The ADA covers four different areas: Title 1 covers [employment](#), Title 2 covers [public services](#), Title 3 covers [public accommodation](#), and Title 4 covers [telecommunications](#). This overview covers Title 1, rights in employment settings.

Continued on page 4

Stacey Snovel Joins Triquetra

Stacey Snovel is the newest voice at Triquetra and likely the first person you'll speak with when you call us. Stacey is a 2007 graduate from [Millersville University](#), with a B.S. in Speech Communications and a focus in theatre. As a Triquetra Legal Assistant, Stacey stays busy assisting new clients with appointments, drafting correspondence, filing documents, and much more. When you think of multi-tasking, think Stacey.

Triquetra staff are known for their moxie and Stacey is no exception. You're apt to find her singing karaoke around town and on-stage at various venues, including the [Renaissance Fair](#). Welcome Stacey to Triquetra Law!



Stacey Snovel

The Lawyers of Triquetra Law focus our practice on ACE:
Appeals
Civil Rights
Employment
Law & Policy

Update on the Family Medical Leave Act

The [Family & Medical Leave Act](#) (the “FMLA”) provides eligible employees with up to 12 weeks of job-protected, unpaid leave in a 12-month period. Acceptable reasons for FMLA leave include: the birth and care of an employee’s child; new adoption or foster care; care for an immediate family member with a serious health condition; or the employee’s own serious medical condition. Effective January 28, 2008, as part of the [National Defense Authorization Act](#), the FMLA was expanded to allow an employee to care for a family member who is injured during military service, or so an employee can take care of certain “exigencies” related to an immediate family member’s military service or call-up for service.

Who is eligible for the new FMLA military-related leave?

Leave is available to employees who are otherwise covered by the FMLA (employers with 50 or more employees and other specific requirements). The first new provision allows an employee whose spouse, child, parent, or next of kin (nearest blood relative) is injured while on active military duty to take up to a maximum of 26 weeks of unpaid leave during a 12-month period, to take care of the injured service person. The employee can take leave to care for a service member who is undergoing medical treatment, recuperation or therapy for a “serious injury or illness” that occurred in the line of duty that renders the service

member unfit for duty. This “injury” is not limited to combat injuries, but can include non-combat related illnesses and accidents if the person is in active service.

The new amendments also allow eligible employees up to 12 weeks of unpaid leave for any “qualifying exigency,” if an employee’s spouse, son, daughter or parent is on active duty or has been notified of an impending call/order to active duty.

The term “qualifying exigency” has not yet been defined, but will be defined in Department of Labor (DOL) regulations in the future. The law’s intent was to provide service members with a family support system in case they need time to get their affairs in order before and after their active duty time (such as financial matters, child care). Employers are not required to provide this type of leave until the regulations are issued, but the DOL is encouraging employers to provide this type of leave liberally for their qualifying employees.

Other Proposed FMLA Changes

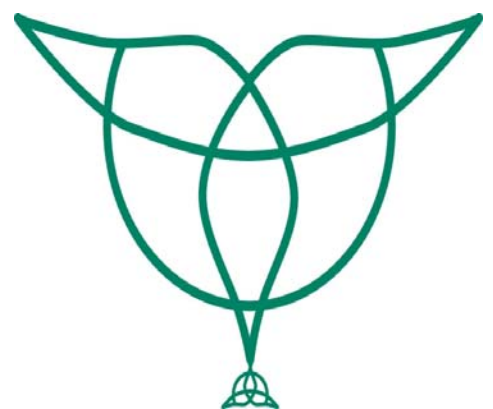
On February 11, 2008, the DOL [published proposed new FMLA regulations](#). Some of the *proposed* changes include:

- ◆ Requiring employees to follow the employer’s usual call-in procedures for reporting an absence;
- ◆ Clarifying that time spent on “light duty” does not count against an employee’s FMLA entitlement;

- ◆ Adding physicians’ assistants as recognized health care providers;
- ◆ Allowing an employer to directly contact an employee’s health care provider to clarify certification forms;
- ◆ Permitting employers to disqualify employees from receiving certain bonuses if the employee has been absent;
- ◆ Obligating employers to provide better notice to employees about their FMLA rights; and
- ◆ Adding details about chronic conditions and continuing treatment by a health care provider.

You can provide comments to the proposed regulations until April 11, 2008.

For more assistance with taking leave from work contact Triquetra Law Offices at 717-299-6300.



Legal Notes:

Asking your employer to accommodate a disability: What employees need to know.

by *Andrea C. Farney, Esq.*



Have you ever wondered whether to ask your employer about a way to accommodate a disability you have that affects your work? While it seems risky to admit you're having a problem, remember that if the employer doesn't know about it, they can't be expected to try to come up with a solution for you. In ADA law this is called **making a reasonable accommodation**.

A reasonable accommodation is a change or adjustment to a job process, the work environment, or to the manner work is performed. The change is made specifically to allow an individual with a dis-

ability to perform his/her job. Some examples of accommodation include modifications to:

- ◆ work schedules, e.g. changing shifts or altering breaks
- ◆ Equipment, e.g. work station set-up, and
- ◆ Procedures, e.g. calling off from work.

Be creative and cooperative when seeking solutions to accommodate your needs. Once you notify your employer that you need an accommodation, the employer is obligated to engage in an **interactive process** with you. This means that you need to make sure that your employer knows that you are asking them for an accommodation. Put your request in writing. Follow any company procedures, even when you think they will not work. Make sure you keep a copy of your request. It's also important to cooperate with your employer's reasonable requests.

See if you can determine what exact problem you are having and if there is a solution that works for both you and your employer. Examples of what you might ask your employer for are as variable as they are specific to your particular situation. Every case is different, so don't be afraid to be creative in what you ask for.

You may have redress if your employer fails to accommodate your disability. This is particularly so if the employer does not even try to work with you in coming up with a solution, or if they retaliate against you as soon as you ask for one. Sometimes an accommodation is too hard or expensive for the employer—in the law this is known as an “undue burden.” In such cases, the employer may not have to resolve the problem in the particular manner that creates the undue burden. Remember the basic rule, “Ask for what you need.”

Contact Triquetra at 717-299-6300 for assistance with

What Employees Need to Know about COBRA

- ◆ **What is COBRA?**
The Consolidated Omnibus Budget Reconciliation Act passed by Congress in 1986.
- ◆ **What does COBRA do?**
Provides certain former employees, retirees, spouses, former spouses and dependent children the right to temporary continuation of health coverage at group rates.
- ◆ **Who is entitled to benefits?**
Generally group health plans for employers with 20 or more employees, including both full and part-time employees.
- ◆ **Who can benefit from COBRA?**
Generally an individual covered by a group plan on the day before a “qualifying event.”
- ◆ **What is a “qualifying event?”**
Certain events that cause someone to lose health coverage, including the voluntary or involuntary termination of your employment for reasons that do not amount to gross misconduct, or a reduction in the number of hours you work.

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Suffragettes picketing President Wilson

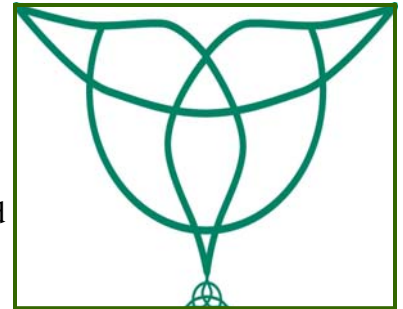
March is Women's History Month: The 19th Amendment granted women the right to vote. Today we can vote a woman into the Presidency! Cast your ballot on April 22, 2008!

Watch for updates on our web site [News & Resources](#) Section. The attorneys at [Triquetra Law](#) concentrate on appeals, civil rights, and employment law and policy. Call 717-299-6300 to set up a thorough case assessment.

Andrea Farney helped organize a public education campaign with the Pennsylvania Bar Association [Community and Public Relations Committee](#). Look for more information about the campaign in October 2008. The campaign is entitled "Why do I need a lawyer?"

Sharon López was appointed Chair of the Lancaster Bar Association [Diversity Committee](#) for 2008. This Summer Lancaster will host six first year minority law students for eight weeks. You can find out more about this project on the Lancaster Bar Association web site.

Sharon also co-moderated a workshop about racial and ethnic diversity in county bar associations with [Justice Eakin](#) and [Sam Cooper III](#). The workshop was part of the [Conference of County Bar Leaders](#) held in State College in February 28-March 1, 2008.



ADA Basics -cont. from p. 1—Sharon R. López

An employer may not deny a qualified individual an employment opportunity simply because s/he has a [disability](#). However, the employer must have at least 15 employees to fall under the ADA.

There are three categories of disability discrimination under the ADA: 1) Individuals who have physical or mental impairments that substantially limit a [major life activity](#); 2) Individuals who have a record of impairment where the individual recently recovered from an illness or condition that substantially limited a major life activity; 3) Individuals who are [regarded as having an impairment](#), e.g. a person has epilepsy but takes medication. Much of the litigation under Title 1

addresses the definition of a disability.

Employees with a disability have the right to request an accommodation at work. An employer must only provide accommodations that are reasonable. Whether an accommodation is reasonable depends on many factors: cost, the nature of the accommodation, the size of the business, etc. Some examples of reasonable accommodation include access ramps to a building, modified work schedules, and approving use of paid and unpaid leave for treatment purposes.

The ADA covers all aspects of employment: hiring, firing, and work conditions. It also covers non-work facilities, such as the cafeteria, em-



ployee lounge or auditorium, and all employment-related programs and services.

If you have a disability and have questions about your work, contact Triquetra Law at 717-299-6300, or email us at info@triquetralaw.com