

## THINK YOU KNOW HOW FAR YOU HAVE TO GO FOR YOUR EMPLOYEES? THINK AGAIN.

Two recent decisions have surprised both employers and legal analysts evaluating what measures employers must take under the law.

In one case, the Seventh Circuit Court of Appeals concluded, in *Ekstrand v. School District of Somerset*, that a teacher suffering from “seasonal affected disorder” has a “disability” under the American with Disabilities Act and that a school district had to accommodate that disability by moving the teacher to a room with natural light. The appellate court reversed the lower court’s dismissal of the teacher’s failure-to-accommodate claim, concluding that, after the teacher had informed the district that natural light was the “key” to improvement in her seasonal affective disorder, the school district was obligated to provide her with a room allowing natural light unless it would impose an undue hardship on the district to do so.

Elsewhere, the Indiana Court of Appeals recently determined, in *PS2, LLC v. Childers*, that an obese worker who suffered a back injury on the job was entitled to workers’ compensation not only for the cost of the back surgery to remedy the injury, but also for the \$20,000 to \$25,000 cost of lap-band surgery to reduce the employee’s weight in order to promote the success of the back surgery. Despite the fact that the employee was obese (340 pounds) before the accident, the court upheld the state workers’ compensation boards’ decision to require the weight-loss surgery because the obesity was a “pre-existing medical/health condition” that “combine[d] with the accident at work to create a single injury” for which the employee was “entitled to treatment.”

These cases are just two recent examples of continuing developments providing that, what may seem to be reasonable limits of how far employers must go to cover costs or provide reasonable accommodations to their employees related to their jobs, may not actually encompass the expansive obligations of employers under the law.