

## 10th Circuit ADA Ruling Drives Home The Importance Of Written Job Descriptions

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A cancer survivor's Americans with Disabilities Act (ADA) lawsuit against a prospective employer was rejected this week by the U.S. Court of Appeals for the 10th Circuit in *Kilcrease v. Domenico Transportation Co.* The case involved a truck driver who, after successfully overcoming cancer, applied for work with a trucking company, Domenico Transportation. The job required applicants to (1) hold a Class A commercial driver's license, (2) have three years of recent and verifiable mountain driving (the company is located in Colorado), (3) have no moving violations within a three-year period and (4) be able to drive year-round in the Colorado mountains. During the application process, the employee disclosed that he had been unemployed for several years due to cancer, but that it now was in remission. The trucking company subsequently rejected his application, ostensibly because he lacked three years of recent driving experience, which was required by the company's auto-insurance underwriter. The driver warned Domenico that not hiring him violated the ADA, but the company did not change its mind. The truck driver then sued under the ADA. The district court rejected his claims, and this week, the 10th Circuit agreed – relying in large part on the employer's written job description. The court found that the applicant was not a qualified individual with a disability because he was unable to perform the essential functions of the job. This is why a written job description can be critical. The job description in this particular case required qualified applicants to have *three years* of mountain driving experience, but as it turns out, the plaintiff only had about half that. In evaluating the criteria for the job, the court gave considerable weight to the employer's depiction of the job's essential functions – and particularly the three-year mountain driving requirement – and refused to second-guess the employer's rationale because the requirements were job-related, uniformly enforced and consistent with business necessity. As a result, the court concluded that the plaintiff could not establish a prima facie case of discrimination under the ADA because he failed to establish that he was a qualified individual with a disability. The job description in this case was central to the company's decision not to hire the plaintiff and ultimately, was the crux of the judicial decision to dismiss the case against the company. If the trucking company had not maintained a job description with specific requirements – such as three years of mountain driving – the company would have been forced to prove the requirements through oral testimony. Inherently, proof through oral testimony is much harder to establish and is a lot easier to challenge. As seen in this case, having a written job description that accurately reflects the requirements of the job, and which is adhered to by the company, can sidestep a lot of these problems. The full case citation is *Kilcrease v. Domenico Transportation Co.*, 10th Circuit Case No. 15-1320

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