

# Rigid Compliance with Company Policy May Violate the ADA

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The Sixth Circuit Court of Appeals recently issued a [decision](#) upholding a jury's guilty verdict against a large national retailer. Although a straightforward application of the Americans with Disabilities Act, this case a great example of how strict enforcement of company policy can run afoul of the Act's prohibition against discrimination and an employer's obligation to provide reasonable accommodations.

The plaintiff, Linda Atkins suffered from diabetes. She took insulin and monitored her diet. To fend off possible hypoglycemic episodes, which included seizures and blackouts, she needed 100 calories of glucose immediately available to her. Her glucose of choice was orange juice: easily measured, consumed and stored.

Early in her tenure, if Atkins experienced an episode, she excused herself to the break room where she kept her orange juice. This worked well for her, and her work performance was awarded with a promotion to front-end lead. As lead, she often worked alone. That meant she could no longer leave the register to fetch her juice. She thus asked the store manager if she could keep it at the register since.

The store manager said no, citing a store "grazing" policy prohibiting employees from eating or drinking at the register. The manager did not engage in any further discussion about it. After having her request rejected, Atkins had two diabetic episodes that required her to grab a juice from the store cooler to drink it. She then paid \$1.69 for the juice each time. She also informed the manager about each episode. Once again, the manager did not engage in any type of discussion with Atkins about a better accommodation.

Shortly thereafter, Dollar General investigated possible employee theft. They learned about Atkins' juice purchases, interviewed her about it, then terminated her because she consumed the juice before she paid for it. Atkins sued for disability discrimination and failure to accommodate. The employer lost both before a jury and on appeal.

Here are some takeaways from the decision. Employers must have an ADA policy and provide managers training on it. Managers, especially those in decentralized businesses like retail chains, must understand their role in the interactive and accommodation processes. In this case, breaking from policy and allowing Atkins to keep juice at

the register was a reasonable accommodation. Moreover, the store manager did not take any steps to engage Atkins to see if some other accommodation within store policy may have worked for her. Ultimately, the company put form over substance, endangering its employee and submitting the company to a significant (over \$700,000), adverse, and easily-preventable verdict.

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## Topics

ADA, Disability, Accommodation, Failure To Accomodate, Reasonable Accomodation, Americans With Disabilities Act, Disability Discrimination