

# CLIENT ALERTS

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## State Employers are Immune From ADA Retaliation Claims

### Client Alert

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The Americans With Disabilities Act (ADA) has a prohibition on disability discrimination (Title I) and a prohibition on retaliation (Title V). The U.S. Supreme Court had previously ruled that the State had immunity in Federal Court under the 11<sup>th</sup> Amendment to the U.S. Constitution, for Title I discrimination claims. Because State entities such as State Universities are synonymous with the State, that same Title I immunity applies to them. However, the Sixth Circuit Court of Appeals, which has jurisdiction over federal claims filed in Michigan, had never previously addressed whether that same immunity also applies to Title V retaliation claims.

In the case of *Stanley v Western Michigan University*, the Court addressed that issue for the first time. It held that when a Title V retaliation claim is based on a complaint about the same alleged discrimination on which a Title I claim is based, a state defendant is also immune.

Benjamin Stanley was a short-term employee of Western Michigan University (WMU). His employment was terminated during his probationary period for poor performance and failure to properly check in. Stanley alleged that he used a service dog, and that the University failed to accommodate him, and discriminated against him because of a disability, and retaliated against him for complaints about that discrimination.

The University, represented by Butzel Long, filed a motion to dismiss in lieu of an answer. The Federal District Court for the Western District of Michigan granted the motion, and Stanley appealed.

The Sixth Circuit has now affirmed that dismissal. It held that when a Title V retaliation claim is based on complaints regarding the same alleged discrimination on which a Title I discrimination claim is based, a State defendant is entitled to

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the same immunity as Title I claims, and that such immunity was not properly abrogated by Congress.

This important ruling applies to claims against the State itself, as well as State Universities and other State agencies. It now provides such state entities, sued under the ADA, a significant defense to such claims, a defense that can be asserted early in a litigation.

Please feel free to contact the author of this Client Alert or your Butzel attorney for more information.

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