

APPEALS COURT FINDS ADA ASSOCIATION CLAIM

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In Dewitt v. Proctor Hospital, 517 F.3d 944 (7th Cir. 2008), the Seventh Circuit Court of Appeals addressed the rarely litigated “association discrimination” section of the Americans with Disabilities Act (ADA). This provision, 42 U.S.C. § 12112(b)(4), prohibits discrimination against an employee based upon “the known disability of an individual with whom [the employee] is known to have a relationship or association.” Dewitt, who was initially employed as a nurse before being promoted to clinical manager, had apparently been a productive employee. Her husband, however, was involved in a prolonged and expensive battle with cancer. The Hospital, which was partially self-insured, was paying hundreds of thousands of dollars for medical coverage provided through Dewitt’s employment. In February and May of 2005, the Hospital questioned Dewitt about her husband’s treatment. In August 2005, the Hospital fired Dewitt and deemed her “ineligible to be rehired.” Although the District Court had granted summary judgment on this claim in favor of the employer, the Seventh Circuit concluded that this evidence was direct proof of discrimination against Dewitt because of her husband’s disability so that a jury will ultimately determine the Hospital’s liability. This case presents a good example of a situation where an employee is protected by the association discrimination provision in the ADA. It should also serve as a reminder to consider this section of the ADA if you are contending with issues that relate to an employee’s disabled family member or associate.