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From the Los Angeles Times

Diabetic man wins Americans With Disabilities Act ruling

An Arizona utility worker's case shouldn't have been dismissed, a panel of the 9th Circuit Court of Appeals rules. His suit now goes to trial.
 By Carol J. Williams

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In a decision with potential implications for the nation's 24 million diabetics, a federal appeals court ruled Friday that a Type 2 diabetes patient may be entitled to the protections of the Americans With Disabilities Act.

A lower court was wrong to dismiss a case brought by Larry Rohr of Mesa, Ariz. -- who alleged that his public-utility employer discriminated against the disabled in pushing him out of his job -- on the grounds that his disease did not constitute a disability, [the U.S. 9th Circuit Court of Appeals ruled](#).

The three-judge panel also found fault with the employer's grounds for insisting that Rohr take a lower-paying job, disability benefits or early retirement because he failed to take a test showing he could use a respirator that had little to do with his work as a welding metallurgy specialist. Rohr said his job was mainly office work.

Rohr's dismissal after 23 years with the Salt River Project Agricultural Improvement and Power District may have constituted discrimination against the disabled, as it was in response to a request from Rohr's doctor that he be exempted from occasional out-of-area assignments that interfered with his insulin treatment and diet regimen, the judges concluded.

"The ADA defines 'disability,' in pertinent part, as 'a physical or mental impairment that substantially limits one or more of the major life activities of such individual,'" wrote the judges, who were all named to the federal bench by President Clinton. "Diabetes is a 'physical impairment' because it affects the digestive, hemic and endocrine systems, and eating is a 'major life activity.'"

Rohr's suit against the energy utility, one of Arizona's largest, now goes to trial in U.S. District Court in Phoenix.

The lawyer for Salt River, John Egberg, said the utility intended to fight the allegations that Rohr's dismissal was an act of discrimination.

Friday's ruling underscored that the ADA, as enacted in 1990 and amended last year, "expects employers to make reasonable accommodations and together with employees to find a way to maintain employment," said Paula Pearlman, who heads the Disability Rights Legal Center at Loyola Law School in Los Angeles.

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