

ALI-ABA Audio Seminar

NEW Proposed Regulations for the ADA Amendments Act

October 21, 2009

Telephone Seminar/Audio Webcast

The Americans with Disabilities Act: Selected Developments as of July 2009

PowerPoint Presentation

By

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**The Americans With
Disabilities Act - Selected
Developments**

**ALI-ABA's
Current
Developments In
Employment Law**

Santa Fe, New Mexico
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Retroactivity of the ADA Amendments Act

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Thorn v. BAE Systems Hawaii Shipyards, Inc.

2009 WL 274507 (D. Haw. Feb. 2, 2009)

- District court denied plaintiff's motion for an extension of time to file his appeal
- Court declined to apply the ADAAA retroactively because:
 - Retroactive application could increase employer's liability for past conduct and impose new duties with respect to transactions already completed
 - Language of ADAAA does not clearly favor retroactivity

See also Kiesewetter v. Caterpillar, Inc. (7th Cir. 2008)(affirming summary judgment for the employer because the ADAAA did not apply retroactively to the employee's appeal).

Retroactivity of the ADA Amendments Act

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Jenkins v. Nat'l Bd. of Med. Examiners

2009 WL 331638 (6th Cir. 2009)

- District court erred in denying plaintiff additional time on the U.S. Medical Licensing Examination as a reasonable accommodation for his reading disability
 - Sixth Circuit vacated and remanded the case for further findings in light of the ADAAA
- ADAAA applicable to pending cases for **prospective relief**
 - Plaintiff sought injunctive relief for a future examination, thus, the ADAAA applied