
Emotional Distress Damages Unavailable in Section 504 Actions

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On April 28, 2022, the United States Supreme Court narrowed the scope of damages available under Section 504 of the Rehabilitation Act of 1973 (Section 504), ruling that emotional distress damages are not recoverable in private actions to enforce Section 504 and other similar Spending Clause antidiscrimination statutes, including the Affordable Care Act (ACA), Title VI, and Title IX.

Background

Plaintiff Jane Cummings is deaf, legally blind, and communicates primarily in American Sign Language (ASL). She sought physical therapy and requested an ASL interpreter at her appointments from Premier Rehab Keller, a small business in Dallas and recipient of federal financial assistance. Premier declined to provide the requested ASL interpreter and suggested Cummings communicate with her therapist through written notes, lip reading, or gesturing. Cummings obtained care from another provider and later filed suit against Premier alleging discrimination on the basis of disability in violation of Section 504 and the ACA. Cummings alleged Premier caused humiliation, frustration, and emotional distress as the only compensable injuries in her lawsuit. The trial court dismissed Cummings' complaint on the grounds that she only claimed emotional distress damages, which are not recoverable under Section 504 or the ACA. The Fifth Circuit affirmed the decision on similar grounds.

U.S. Supreme Court Decision

In *Cummings v. Premier Rehab Keller, P.L.L.C.* (2022) __ U.S. __, the Supreme Court agreed emotional distress damages are not available in actions to enforce Spending Clause antidiscrimination statutes. The Court noted that, at the time a prospective funding recipient engaged in the process of deciding whether to accept federal dollars, they may not have been aware they would face liability for emotional distress damages. Absent clear statutory language providing for emotional distress damages, the Court held that the damages

available must be limited to those available under contract law. The Court reasoned that because emotional injury is generally not recoverable for breach of contract, emotional distress damages are not available under Section 504 or ACA claims.

Takeaways

Local educational agencies should pay close attention to potential penalties prescribed by statute when accepting federal funding. This case affirms recipients of federal funding are on notice of remedies explicitly prescribed by statute, or those generally available in a breach of contract suit.

Additionally, the specific preclusion of emotional distress damages may be a factor when considering litigation or settlement under Section 504 and ADA. While the case does not provide for emotional distress damages, keep in mind compensatory damages still remain available for intentional violations of Title VI, Title IX, Section 504, and the ACA.

If you have any questions about *Cummings v. Premier Rehab Keller, P.L.L.C.*, emotional distress damages, or Section 504 actions in general, please contact the authors of this Client News Brief or an attorney at one of our [eight offices](#) located statewide. You can also subscribe to our [podcasts](#), follow us on [Facebook](#), [Twitter](#) and [LinkedIn](#) or download our [mobile app](#).

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