

ConAgra

Rodriguez was diagnosed with diabetes in 1997. In January 2002, a temporary staffing agency placed him at a **ConAgra** plant in Texas, where he performed heavy manual labor. In February 2002, based on the quality of his work, ConAgra offered Rodriguez a job as a "Production Utility" employee contingent on his passing a background check, a drug screen, and a physical exam.

Rodriguez visited Occupational Health Solutions ("OHS"), a clinic with which ConAgra had a contract to perform preemployment physical exams. Under the contract, Dr. Jerry Morris was to assess Rodriguez's medical qualification for the Production Utility job. However, ConAgra never gave Dr. Morris any data or restrictions applicable to the job, and Dr. Morris admitted that when he examined Rodriguez he knew nothing of the job offer or the qualifications needed for the job.

Dr. Morris performed a urinalysis on Rodriguez, which showed an elevated concentration of glucose in his urine. Based on the glucose level and the fact that Rodriguez could not remember the name of his treating doctor or the medication he was taking to control his diabetes, on the medical form that Dr. Morris submitted to ConAgra he wrote that Rodriguez was "not medically qualified" for the job because of "uncontrolled diabetes." He told Rodriguez that he did not believe he was controlling his diabetes. Rodriguez disagreed, telling him that he had had a complete physical two months before, he was taking medication, and he had never had trouble. Rodriguez's oral medical history and physical exam confirmed that he suffered no problems attributable to his diabetes. Dr. Morris admitted that he observed no ill effects attributable to Rodriguez's diabetes.

After the exam, Rodriguez took his completed medical form to Human Resources Manager Elza Zamora. She told him that he would not be hired because he had failed the physical exam and Dr. Morris did not recommend him for employment. Four days later, Rodriguez filed a charge of discrimination with the EEOC. In June 2002, Rodriguez sued ConAgra, alleging that it violated the ADA when it refused to hire him because of what it perceived to be uncontrolled diabetes.

Stoughton Trailers, Inc.

Douglas Geen worked as an assembler for **Stoughton Trailers, Inc.**, a manufacturer of semi-trailers. The company utilized a no-fault attendance policy. The no-fault policy mandated termination of any employee who accumulated six “occurrences”—defined as any absence, early departure, or tardiness occurring on a scheduled workday. The policy exempted absences covered by the state or federal family medical leave laws. If an employee verified that an absence was illness-related but failed to return the medical leave certification form, the absence was counted as one occurrence regardless of its length.

In early December of 1996, Geen had accumulated 4.5 occurrences, none that were disability related. From mid-December 1996 to early January 1997, Geen missed work due to migraines. During this absence, Stoughton Trailers sent Geen a family medical leave certification form and a letter advising him to return the completed form within the 15 days if the absence was to be considered for family medical leave. The letter stated that Geen would not receive an occurrence for his absence if it qualified for family medical leave. Geen never returned the form, so the multi-week absence counted as one occurrence, bringing him to 5.5 total occurrences under the no-fault attendance policy.

Geen was again absent from work on January 24, 1997 (Friday) and January 27-28, 1997 (Monday and Tuesday). On each day of absence, Geen called Stoughton Trailers and reported that he could not work due to migraines or related medical appointments. When he returned to work, on January 29, Stoughton Trailers presented Geen with another letter and certification form. A Human Resources Administrator also verbally informed Geen that he must return the form for the absence to be considered for family medical leave. On January 30, Geen presented a note from his healthcare provider stating that he was being evaluated for migraine headaches. The note did not identify any dates of incapacity or release Geen to return to work. On January 31, Geen submitted another note from his healthcare provider stating that he was unable to work on January 27-28, and that he could now return to work without restrictions. The note, however, was silent regarding his January 24 absence, and Geen did not return the certification form. As a result, Stoughton terminated Geen on January 31, 1997, on the grounds that his medical documentation did not excuse him for the January 24 absence, causing his occurrence total to exceed the six-point allowance under the no-fault policy. At the same time, the Human Resources Administrator advised Geen that he could appeal the termination to the Attendance Review Board (“ARB”). She also advised him that his termination would be reversed if he submitted his certification form or medical documentation supporting his need for family medical leave on January 24. Geen appealed his termination to the ARB, but failed to submit the certification form or additional documentation. On February 21, Geen had not submitted the form or documents to the ARB, so it rejected the appeal and confirmed his termination.