

Ninth Circuit Rules No Compensatory/Punitive Damages, No Jury Trial in ADA Retaliation Claims

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On December 11, 2009, the Ninth Circuit Court of Appeals ruled in [*Alvarado v. Cajun Operating Company*](#) that Americans with Disabilities Act retaliation claims are limited to “equitable relief,” including injunctive relief and backpay.

In the decision below, the United States District Court for the District of Arizona granted Cajun summary judgment on Alvarado’s ADA discrimination claim, but denied summary judgment on Alvarado’s retaliation claim, as well as his age discrimination claim. Cajun then filed an evidentiary motion known as a “motion in limine,” asserting that Alvarado should not be entitled to a jury trial on his ADA retaliation claim, and further that Alvarado should not be permitted to seek compensatory and punitive damages under the ADA. The district court granted Cajun’s motion, prompting Alvarado’s appeal.

The Ninth Circuit affirmed. In reaching its decision, the Ninth Circuit looked first to the ADA’s anti-retaliation provision, [42 U.S.C. §12203\(c\)](#), which incorporates remedies and procedures found in [42 U.S.C. §§12117](#), [12133](#) and [12188](#). Those provisions in turn lead to [42 U.S.C. §2000e-5\(g\)\(1\)](#) specifying only equitable relief. The Ninth Circuit acknowledged that 42 U.S.C. § 1981a provides for expanded remedies for specific disability claims, but found that ADA retaliation claims fell beyond the scope of [42 U.S.C. § 1981a](#).

The Ninth Circuit concluded: “ADA retaliation claims are redressable only by equitable relief, no jury trial is available.” As a result, a plaintiff asserting an ADA retaliation claim in the Ninth Circuit may not, by virtue of that claim: (1) recover compensatory damages; (2) recover punitive damages; or (3) secure a jury trial. However, employers must continue to carefully abide by state and federal disability law, and abstain from any conduct which might be construed as retaliation. With recent alterations to the ADA, and the increasing frequency of retaliation claims in general, substantial exposure remains for employers despite the favorable ruling in *Alvarado*.