

# **Bond Case Briefs**

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## **EMPLOYMENT - OHIO**

### **Brockmeier v. Greater Dayton Regional Transit Authority**

**United States District Court, S.D. Ohio, Western Division - July 2, 2013 - Slip Copy - 2013 WL 3337403**

Bus driver claimed that his employer, Greater Dayton Regional Transit Authority (“GDRTA”), violated the Americans with Disabilities Act (“ADA”) and the corollary provision of Ohio law, when GDRTA did not allow him to drive a bus for almost two years after it received a physician’s report-stating that he did not meet Department of Transportation (“DOT”) medical certification guidelines for operation of a commercial vehicle due to symptoms associated with his multiple sclerosis (“MS”).

This was an unusual ADA claim in that Plaintiff did not seek an accommodation or challenge the reasonableness of the accommodation his employer offered him; rather, Plaintiff claimed he should have been permitted to continue driving a bus, despite the fact that he failed a medical exam. To that end, the Court noted that this a highly regulated area of the law—likely on account of the significant safety concerns involved with public bus drivers and their transportation of citizens of the community. Quite likely indeed.

Plaintiff alleged that he submitted to GDRTA a number of physicians’ certificates determining that he was able to return to work during his unpaid leave, but was not allowed to return to work. Notably, however, Plaintiff did not allege that any of these reports specifically opined whether or not he met the DOT Medical Certification guidelines for operating a commercial motor vehicle. Further, Plaintiff did not allege that he attempted to resolve the conflicting opinions through the established administrative procedure.

The court dismissed the case, noting that in order to determine whether Plaintiff was qualified for his position, the court would have to resolve the disagreement between the divergent medical opinions and this was not the appropriate forum in which to do so.