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Under Fed. R. Civ. P. 56, summary judgment is proper when:

(1) no genuine issues to any material fact remains to be litigated and the moving party is entitled to judgment as a matter of law. The court must

draw all reasonable inferences in favor of the nonmoving party, and it may not make credibility determinations or weigh the evidence. *Lytle v.*

Household Mfg., Inc., 494 U.S. 545, 554- 555 (1990); *Anderson v. Liberty*

Lobby, Inc., 477 U.S. 242, 254 (1986); *Continental Ore Co. v. Union*

Carbide & Carbon Corp., 370 U.S. 690, 696, n.6 (1962). Credibility

determinations, the weighing of evidence, and the drawing of legitimate

inferences from the facts are jury functions, not those of a judge. *Anderson*,

477 U.S. at 255. Thus, although the court should review the record as a

whole, the Supreme Court noted, it should disregard all evidence favorable

to the moving party that the jury is not required to believe. *Id.*

Mr. Brown can prove a case of disability discrimination under the

Americans with Disabilities Act in that: (1) Defendant regarded him as

disabled; (2) he is otherwise qualified for the job; and (3) he suffered an

adverse employment action due to his disability. *Pena v. City of Flushing*,

651 F. App'x 415, 419 (6th Cir. 2016). Once Mr. Brown establishes his

prima facie case, the burden then shifts to the Defendant to offer a legitimate

explanation for its actions. *Manzer v. Diamond Shamrock Chems. Co.*, 29

F.3d 1078, 1084 (6th Cir. 1994). If the defendant is able to set forth a non-

A Rule is cited by including the abbreviation and rule number.

A citation to a specific page of a case requires the notation of a page number.

When a case is cited again, use the short form. **Short form includes:** First name of case only, reporter number & name, specific page number.

Formatting Tip: Legal documents are usually double-spaced. Font varies by court or law firm, but Times New Roman, 12 point is recommended. **Note:** this paper is written in the format used for a memo, motion, or other document used in legal practice.

First time case citation includes: Case name, reporter number & name, page number, and year.

If citing to the last case and page of that case cited in this paragraph, you can use the abbreviation "Id."

For Appellate Court opinions, include the court abbreviation before the year.

discriminatory reason, Mr. Brown must introduce evidence showing that the Defendant's proffered explanation is pretextual. *Id.*

An individual is "regarded as" disabled if an employer "mistakenly believes that an employee has a physical impairment that substantially limits one or more major life activities or . . . mistakenly believes that an actual, nonlimiting impairment substantially limits one or more of an employee's major life activities." *Daugherty v. Sajar Plastics, Inc.*, 544 F.3d 696, 704 (6th Cir. 2008) "The regarded-as-disabled prong of the ADA 'protects employees who are perfectly able to perform a job, but are rejected because of the myths, fears and stereotypes associated with disabilities.'"

Use quotations when pulling language directly from a source.

Use *Id.* at and the page number when citing to the last case, but a new page number.

Id. at 703. Once an employee has been hired, the Americans with Disabilities Act prohibits an employer from "requir[ing] a medical examination" or making "inquiries of an employee as to whether such employee is an individual with a disability or as to the nature or severity of the disability, unless such examination or inquiry is shown to be job-related and consistent with business necessity." 42 U.S.C. § 12112(d)(4)(A)

The name of the statute is included in the text, so it does not have to be included in the citation.

(2008). Medical exams are permitted periodically throughout employment when there are symptoms showing which might necessitate an exam. Jarod S. Gonzalez, *A Matter of Life and Death - Why the ADA Permits Mandatory Periodic Medical Examinations of "Remote-Location" Employees*, 66 La. L. Rev. 681, 696 (2006). *see also* Chai Feldblum, *Medical Examinations and Inquiries under the Americans with Disabilities Act: A View From the Inside*, 64 Temp. L. Rev. 521, 537 (1991) ("After a conditional job offer has

Statute citations include: Title, Number, Code, Abbreviation, Section (year).

Law Review Article Citation.

been made, the ADA allows the employer to require all forms of medical examinations and to make all types of inquiries of job applicants. There is no 'job-validation' requirement for these examinations or inquiries.") Although the statute clearly permits medical examinations and inquiries, "an employer's discretion to order employees to undergo examinations is hardly unbounded." *Sullivan v. River Valley Sch. Dist.*, 197 F.3d 804, 811 (6th Cir. 1999). In the post-hiring context, "demands for examinations can only be made where shown to be 'job-related and consistent with business necessity.'" *Id*; see also Gary Phelan & Janet Bond Arterton, *Disability Discrimination in the Workplace* § 6:1 (2003). For further background on experiences and challenges encountered by employers, employees, and job seekers in testing, see the testimony from the Commission's meeting on testing. See EEOC, *Employment Tests and Selection Procedures* (Sept. 23, 2010) available at: <http://eeoc.gov/eeoc/meetings/archive/5-16-07/index.html>. The forced leave of absence and medical examination was neither job-related nor consistent with business necessity.

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