

## CYNCAR V. POTTER Q&A

Q. I've received the USPS notice in reference to the Cyncar v. Potter class action. What do I do now?

A. In order to help Class Counsel to aggressively and expeditiously process this class action, provide the Class Counsel with your e-mail address at [tjm@18thavelaw.com](mailto:tjm@18thavelaw.com) or call 303-333-8700 and ask to speak to Melissa Meitus or Kathi Donahue and provide this information. To keep matters centralized and preclude duplication please **do not send** these e-mails to [efschaefer@qwest.net](mailto:efschaefer@qwest.net). A questionnaire will be sent to all class members, preferably via e-mail to those personnel who have contacted the class attorneys. Thus it is crucial that we have your e-mail address.

Q. I haven't received the USPS notice in reference to the Cyncar v. Potter class action and I was employed in the Western Area during the stated time parameters of this class action. What can I do?

A. E-mail Class Counsel at [tjm@18thavelaw.com](mailto:tjm@18thavelaw.com) or call 303-333-8700 to advise that you weren't included in the mailing of the notice. Please note, if you weren't employed in the Western Area during the stated period of January 1, 1998 thru December 31, 2002, you **will not have been notified and you are not considered a potential class member** at least, not until such time as the geographical, or calendar parameters of the class are expanded, if that should happen. Also note that the Western Area that existed during the stated timeframe does not include some of the states that currently exist as part of the Western Area due to realignment of Areas in the recent past.

Q. I live in California which is part of the Western Area. Am I included in the class-action?

A. No. California was part of the Pacific Area during the stated time parameters of this class action.

Q. What states were in Western Area during the time period of this class action?

A. Washington, Oregon, Idaho, Nevada, Arizona, Utah, Montana, Wyoming, Colorado, North Dakota, South Dakota, Nebraska, Kansas, Minnesota and Iowa were part of the Western Area during the time period of this class action.

Q. I used to live and work in the Western Area during the time period of this class action, but now I live and work for the USPS in Louisiana. My FMLA was denied during the time period in question, but I haven't received a notice. Am I still considered to be part of the class action, and if so, what do I do?

A. Yes, you are considered part of the class action. E-mail Class Counsel at [tjm@18thavelaw.com](mailto:tjm@18thavelaw.com) or call 303-333-8700 and advise them of your concern.

Q. The notice indicates that “I don’t have to do anything”. What if I have a question that can’t be answered in this Q&A?

A. You can e-mail class counsel at [tjm@18thavelaw.com](mailto:tjm@18thavelaw.com) or call 303-333-8700 and ask to speak to Melissa Meitus or Kathi Donahue to state your concerns or questions.

Q. How do I determine that I am disabled within the meaning of the term “disability”?

- A.
1. The statutory definition of the term "disability" under the ADA, and, consequently, under the Rehabilitation Act of 1973 are as follows:
    - a. A physical or mental impairment that substantially limits one or more of the major life activities of an individual;
    - b. a record of such an impairment; or
    - c. being regarded as having such an impairment.
  2. The regulatory definition of a physical or mental impairment is as follows:
    - a. any physiological disorder, or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genito-urinary, hemic and lymphatic, skin, and endocrine; or
    - b. any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.
  3. The tests for determining whether or not an individual's impairment can be considered a disability can be simply stated in the following manner:
    - a. An individual must have a physical or mental impairment
    - b. that substantially limits
    - c. one or more of the major life activities of an individual, and,
    - d. has a record of such impairment, or,
    - e. is regarded as having such an impairment.
  4. Major life activities *"are those basic activities that the average person in the general population can perform with little or no difficulty"*. The EEOC regulatory definition of the term "major life activity" suggests it to mean, "functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, working". A major life activity can also be, but is not limited to sitting, standing, lifting, reaching, thinking, concentrating, interacting with others, enjoying leisure time activities, reading, and driving.

However, having a diagnosis of an impairment does not automatically indicate that an individual can meet the statutory definition of having a disability. If you can meet the “tests” presented in the above numbered paragraphs, then you may have a disability.

Q. What if I have determined, based on the above stated factors, that I do not have a disability?

A. To participate in this class action you “must” have a disability, and you “must” be a person with a qualified disability. If you do not meet that criteria, then you cannot participate in this class action. Accurately filling out the questionnaire will help us with this evaluation.

Q. If I find that I am disabled, am I a person with a “qualified disability”?

A. You are a person with a qualified disability if you can *perform the essential functions of your position with, or without, reasonable accommodation.*

Q. I have asthma. Is it considered a disability?

A. That would be dependent on how seriously the asthma impairment limits your life activities. If the limitations are minimal then you probably do not have a disability. However, if the limitations are substantial, e.g., you cannot be outside when pollen counts are high, even if you utilize mitigating measures, e.g., inhaler, or you have consistent intermittent episodes of severe asthma attacks, then it is possible that you may have a disability. Again, it would also be dependent on the other potential factors, e.g., how long you have had the asthma impairment, if you have other health issues (impairments) that also affect your life activities, and these impairments are affected detrimentally by your asthmatic condition. The other health conditions do not have to be considered disabilities in and of themselves to be detrimentally affected by your asthmatic condition and contribute to your overall limitations of life activities.

Q. Is there a list of health conditions that I can reference to see if I have a disability?

A. No, there is not a list of health conditions that can be referenced to see if you have a disability. Accurately filling out the questionnaire will greatly assist us in this process, however.

Q. My child has a disability and I am the primary caregiver for that child. My FMLA was denied in several instances, and approved in other instances. Can I be part of this class action even though I have not received a notice?

A. Yes, you can. E-mail Class Counsel at [tjm@18thavelaw.com](mailto:tjm@18thavelaw.com) or call 303-333-8700 and advise them of your concern.