

## The legal reality: Meredith on the job

by Helen M. Russon, Esq.

This is the continuing story of Meredith, a 32-year-old certified public accountant who was recently diagnosed with MS.

In the Winter 2007–08 **Momentum**, we saw how Meredith’s landlord refused to assign her a parking place close to her apartment because he didn’t see her “hidden” disability. MS fatigue made the daily trek very difficult for her.

She was able to resolve that problem by educating herself and her landlord about the **Fair Housing Amendments Act** (FHAA).<sup>\*</sup> This federal law requires all landlords<sup>\*\*</sup> to accommodate tenants with disabilities if it can be done without causing significant difficulty or expense. Upon learning of the legal requirements, the landlord hastily assigned Meredith a permanent parking spot right outside her apartment.

Heartened by this victory, Meredith decided to apply for a position she had been eyeing. The job involved exactly the kind of work she loved: advising people about personal finances and helping them put together investment portfolios. The interview went well, although she was a little unnerved by the question, “We need dependable people here. Can you tell us how much time you missed from work last year because of illness?”

Although Meredith had suffered two short-term exacerbations in the previous year (causing her to miss a total of three weeks), she simply said, “I was sick a couple of times, but not for very long. And I made it all up through overtime.” Her interview-

ers seemed satisfied, and she was offered the job a few days later.

On her first day, Meredith was shown her new office—on the second floor in a building without an elevator. She was surprised, because her interview had been conducted on the first floor. As she and her new boss walked up the stairs together, she tried not to draw attention to the fact that she was grabbing the banister with both hands to hoist her body up.

Meredith loved her new job, and everyone seemed to like her. She politely declined when her boss asked if she wanted to join the company softball

Asking an employer for a reasonable accommodation requires thought, research, and practice.



<sup>\*</sup> [hud.gov/offices/ftheo/FHLaws/yourrights.com](http://hud.gov/offices/ftheo/FHLaws/yourrights.com).

<sup>\*\*</sup>All landlords except religious organizations, private clubs, landlords living on the rental premises, or those who rent a small number of single family dwellings.

team, and she tried to use the stairs as rarely and discreetly as possible.

But she soon realized that co-workers downstairs were doing the same kind of work as she was. There didn't seem to be any "office hierarchy" based upon upstairs or downstairs. So she did a

## TIPS

from **The Win-Win Approach to Reasonable Accommodations** by Drs. Richard T. Roessler and Phillip Rumrill. This Society booklet is online at [nationalmssociety.org/Employment](http://nationalmssociety.org/Employment) or call your chapter for a copy.

- Don't wait until there is a crisis. (Meredith could have a bad accident on those stairs—or find herself suspected of alcohol abuse.)
- Know the ADA, but don't cite the ADA in initial discussions: frame the request in terms of improvement to productivity.
- Learn about accommodations that have worked for others. Visit the Job Accommodation Network Web site ([jan.wvu.edu](http://jan.wvu.edu)).
- Don't assume the boss is the right person to ask. The employee handbook might explain who handles disability issues. Do a little research, then make an appointment.
- It's possible to request an accommodation without naming your diagnosis, but you should have a letter from your physician describing your symptoms. Either way, an explanation will be necessary.
- Before your meeting, practice, practice, practice. Role-play with a friend or a Society advisor. (Call 1-800-344-4867 and ask for an MS Navigator.) Keep in mind that it costs a company time and money to replace an employee, even a new one like Meredith.
- Explore the Society's many other resources on employment, including online courses, Web casts, and a free brochure about MS for your employer.

little research on [ada.gov](http://ada.gov) and decided that she was going to request that her boss transfer her to an office downstairs. She just had to figure out a good time to broach the subject.

Meredith always tried to be very careful on the stairs. But a few days later she stumbled and fell when she was halfway down. As she hit the ground, she heard a collective gasp and saw people running towards her. She got up quickly and said, "No worries—I'm fine!" But later, one of her office buddies told her that he had overheard the boss saying, "I didn't want to mention it, but she really looks unsteady sometimes. And the last thing we need is a workplace injury."

Meredith wondered what to do next. Should she disclose her MS? How would she explain that she needed a downstairs office as a "reasonable accommodation" without disclosing? And how bad would disclosure be for her future with the company?

While the law can be a very valuable tool, the ADA is vague on many issues.

The question Meredith was asked at her interview is a good example. She checked the Web site of the Equal Employment Opportunity Commission (EEOC), [eeoc.gov](http://eeoc.gov), found "Enforcement Guidance on Pre-employment Disability-Related Questions and Medical Exams," and learned the question was not right. But refusing to answer in a job interview might have cost her the offer.

The legal reality is that the world of work is ambiguous—and right now the culture of her workplace may be Meredith's only guide as to what to expect next.

Helen Russon is an attorney who teaches disability law at Willamette University College of Law in Salem, Oregon. She also conducts seminars, provides telephone assistance, and writes newspaper columns about employment issues for the Oregon Bureau of Labor & Industries. Helen was diagnosed with MS in 1997.

---

This information is not legal advice. Readers are encouraged to contact an attorney for help with specific legal issues. —H. Russon, Esq.