

allegation that he repeatedly insisted that nothing (including his HIV status) affected his ability to perform his duties directly rebuts Defendants' assertion that the questioning was necessary to discern whether Plaintiff could "cope with the demands and responsibilities of his job." Thus, Plaintiff has sufficiently pled a claim for an impermissible inquiry under the ADA and Defendants' motion to dismiss on this basis is denied.

CASE QUESTIONS

1. What were the legal issues in this case? What did the court decide?
2. On what basis does the court conclude that this employee is disabled? If the court had not found him to have an actual disability, would he have been able to successfully argue that he was "regarded as" having a disability?
3. Why was the employer's questioning of this employee illegal? If, as it appears, the termination was based on the employee's disability, is there any way the employer could defend its actions?
4. Why do you think the company president acted as he did?