

# U.S. Supreme Court Bars Emotional Distress Damages Under Section 504, Title VI, Title IX, ACA

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The U.S. Supreme Court ruled that emotional distress damages are not recoverable in private actions to enforce statutes authorized by the Spending Clause of the U.S. Constitution. *Cummings v. Premier Rehab Keller, P.L.L.C.*, No. 20-219 (Apr. 28, 2022).

The Court reasoned that Spending Clause legislation, which conditions receipt of federal funds on compliance with the statute, does not permit recovery of emotional distress damages because emotional injury is not generally recoverable for breach of contract.

Statutes authorized by the Spending Clause include:

- Rehabilitation Act (prohibiting discrimination based on disability)
- Title IX of the Education Amendments Act of 1972 (prohibiting sex-based discrimination and harassment at educational institutions)
- Title VI of the Civil Rights Act of 1964 (prohibiting race discrimination at educational institutions)
- Patient Protection and Affordable Care Act (prohibiting healthcare entities from discriminating based on race, sex, disability, or age)

## Background

Jane Cummings, who is deaf and legally blind, sought physical therapy from Premier Rehab Keller and requested that Premier provide an American Sign Language interpreter during her sessions. Premier declined and suggested that Cummings could communicate with her physical therapist using written notes, lip reading, and gesturing. Cummings then sought services from another physical therapy provider.

Cummings filed suit against Premier alleging that its failure to provide an interpreter constituted disability discrimination in violation of the Rehabilitation Act and the Affordable Care Act, seeking damages, declaratory relief, and an injunction. The District Court (Northern District of Texas) dismissed the complaint, finding Cummings' only compensable injuries were emotional and damages for emotional distress are not recoverable in private actions under the Rehabilitation Act or Affordable Care Act. The Fifth Circuit Court of Appeals affirmed the District Court's decision, and the Supreme Court granted *certiorari* to hear the case.

## Contractual Nature of Spending Clause Statutes

The Court focused on the contractual nature of the Spending Clause antidiscrimination statutes. These statutes operate based on consent, meaning that, in return for receiving federal funds covered entities agree to comply with federally imposed conditions. The Court emphasized that entities receiving federal funds must voluntarily and knowingly accept the terms of this contractual relationship and be aware of the penalties they may be subject to if they breach the contract. The Court reasoned that for a particular remedy to be available in a private action under a Spending Clause statute, the funding recipient

must be on notice that it will be liable for such damages as a result of breaching its contract with the federal government.

Prior cases and statutory amendments have clarified that, although there is a private right of action under these antidiscrimination statutes at issue, the Court said, the remedies available are limited to those typically available in breach of contract actions. In *Barnes v. Gorman*, 536 U.S. 181 (2002), the Court held that individuals may recover monetary or injunctive relief but not punitive damages under these antidiscrimination statutes because punitive damages are not available in breach of contract actions.

In *Cummings*, the Court held that emotional distress damages were not recoverable in a private action to enforce Spending Clause antidiscrimination statutes because emotional distress damages are generally not compensable in breach of contract actions.

### Dissent

In a dissent joined by Justices Sonia Sotomayor and Elena Kagan, Justice Stephen Breyer argued that emotional harm is an anticipated injury arising from intentional discrimination and that compensating individuals for such harm is consistent with the purpose of contract law remedies. Justice Breyer further noted the inconsistency between the Court's holding and other antidiscrimination statutes that permit recovery of compensatory damages for emotional distress.

### Takeaways

This ruling is particularly significant for colleges, universities, school districts, charter schools, and healthcare providers, most of whom are federal funding recipients. Students and patients can no longer recover emotional distress damages under these statutes, which historically have been a substantial portion of the damages sought in such actions.

The bar on emotional distress damages is limited to Spending Clause antidiscrimination statutes. The Court's ruling in *Cummings* does not affect federal antidiscrimination statutes that are not Spending Clause legislation, such as Title VII of the Civil Rights Act of 1964 and 42 U.S.C. § 1981. Moreover, it also does not affect state and local antidiscrimination laws.

Jackson Lewis attorneys are closely monitoring the Court's activity. Please contact a Jackson Lewis attorney with any questions about this and other cases on the Court's docket.

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