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Quest Diagnostics Defeats Fired Worker's Disability Bias Suit

By **Melissa Angell**

Law360 (February 2, 2021, 10:06 PM EST) -- Quest Diagnostics escaped a disability discrimination suit on Tuesday, after an Illinois federal judge found that a former patient services representative failed to demonstrate how she was discriminated against or wrongfully terminated as a result of her post-traumatic stress disorder and other disabilities.

U.S. District Judge John J. Tharp Jr. axed Thelma Strong's case against her former employer, saying in an 18-page opinion that she did not allege she was disciplined or fired because of her disability.

Instead, Strong alleged that she was terminated for taking her medical leave relative to her disability.

"Such allegations may support a retaliation claim, but they do not allege an [Americans with Disabilities Act] discrimination claim," the judge said. "Strong's failure to allege an adverse employment action because of her disability, and within the statute of limitations period, warrants dismissal of Strong's ADA discrimination claim."

Strong started working at the New Jersey-based Quest in 2005 and took leave three times under the Family and Medical Leave Act during her 13-year tenure at the company.

Quest approved her first FMLA leave in 2012 after Strong underwent foot surgery. In 2014, Strong sustained a lower back injury after falling off a broken chair at work. Strong requested medical leave, but the request was denied. Strong was then told she would be fired if she took more time off work, according to the opinion.

One week after her request was denied, Strong was accidentally punctured with a needle used to test a patient for sexually transmitted infections, the opinion said. Two days after the incident, Strong received a post-traumatic stress disorder diagnosis from a psychiatrist and filed another FMLA request, which Quest approved.

Strong submitted a workers' compensation claim related to her workplace injury, but Quest purportedly denied the claim in November 2014.

In November 2017, Quest granted Strong's third FMLA request due to her mother's declining health. But after she returned to work in March 2018, her supervisor shared a document with her listing prior disciplinary offenses Strong allegedly committed, the opinion said.

Strong was disciplined in May 2018 after allegedly being seen throwing away confidential patient information. She was disciplined again for the same offense in August 2018 and was fired one day later, according to the opinion.

Strong filed suit against Quest in July 2019, accusing the clinical laboratory of disability-based discrimination, retaliation for taking FMLA leave and subjecting her to a hostile work environment.

But Quest argued in a motion to toss the suit that Strong did not establish a record of any physical or mental impairments that qualify as disabilities under the ADA in the months leading up to her termination. The lab also argued that Strong received her FMLA benefits in full.

On Tuesday, Judge Tharp ruled in the lab's favor and dismissed Strong's suit without prejudice.

In his opinion, the judge said that Quest did not interfere with her leave or any other benefit under the FMLA. He added that Strong's retaliation claim failed, because the company fired her for misconduct nearly five months after she returned from leave.

The judge was also unconvinced by Strong's harassment allegations.

"Strong alleges for the first time in her brief that she was harassed daily by management and reported this harassment to no avail," the opinion said. "As noted above, however, her complaint fails to support this claim, providing no information on what the harassment entailed, when it occurred and when she reported it, or who was responsible."

Counsel for the parties and representatives for Quest did not immediately respond to requests for comment.

Strong is represented by Mason Cole of Cole Sadkin LLC.

Quest is represented by Margo Wolf O'Donnell and Ashleigh Morpeau of Benesch Friedlander Coplan & Aronoff LLP.

The case is Thelma Strong v. Quest Diagnostics Clinical Laboratories Inc., case number 1:19-cv-04519, in the U.S. District Court for the Northern District of Illinois.

--Editing by Nicole Bleier.

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