BARNES & THORNBURG LLP

Southern District Of New York Denies ADA & FMLA Plaintiff's Motion For Summary Judgment & Instead Grants Summary Judgment For Employer

August 17, 2012 | Employee Health Issues,Labor And Employment

Hannesson Murphy
Partner

Proving there is truth in the age-old saying that you should be careful what you wish for, a plaintiff in New York who moved for summary judgment against his employer instead found himself on the receiving end of summary judgment when the court denied his motion and entered judgment for the employer – even though the employer didn't move for summary judgment on its own. The case is *Rodriguez v. Atria Senior Living Group, Inc.* (10-cv-8965-ER), and was issued by the Southern District of New York earlier this week.

The case involved a maintenance technician for a senior living facility who asked for – and was granted – FMLA leave by his employer for various shoulder surgeries. After his last FMLA leave expired, the employer terminated him based on a doctor's note that the technician was unable to return to work. Thereafter, the technician sued asserting a reasonable accommodation claim under the ADA, ADA retaliation, and FMLA interference.

The reasonable accommodation claim was based the theory that the employer had refused to give the technician light duty after he returned to work following his first surgery. The court, however, dispensed with this claim noting that the technician's own doctor had cleared him to return to work at the time. The court similarly rejected the ADA retaliation claim because the technician had failed to provide any evidence connecting his request for leave with his termination.

The technician's FMLA arguments fared no better. For example, the technician claimed that the employer's failure to pay a bonus when he was out on leave somehow interfered with his ability to take FMLA; but this was denied for lack of proof, particularly since the technician actually received the bonus when he returned to work. The court likewise rejected a myriad of other alleged FMLA claims (*i.e.,* that requiring the technician to come in and sign FMLA paperwork removed a day from his total leave time).

The moral to the story is two-fold: (1) things don't always turn out as you might expect; and (2) when pursuing summary judgment, remember that there are more potential outcomes than just "granted" or "denied" – the court could turn things around and rule in favor of the other side.

RELATED PRACTICE AREAS

Affirmative Action/OFCCP Compliance
Disability, Leave and Medical Issues
Labor and Employment
Workers' Compensation

RELATED TOPICS

Termination
Family and Medical Leave Act (FMLA)