

Content Of Doctors' Notes May Help Plaintiffs Establish Evidence Of Disability Discrimination

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How often do you scrutinize doctors' notes turned in by employees for signs of a claimed disability? A recent California case, *Parker v. Comcast Cable Commc'ns Mgmt., LLC*, serves as a reminder that the content of doctor's notes can serve as strong evidence that an employer has constructive knowledge of one's disability. Such a showing can therefore make it easier to establish and bring claims of disability discrimination against employers. In order to be liable for a disability discrimination claim under California's Fair Employment and Housing Act (FEHA), an employer needs to know about an employee's disability. While this seems straightforward, the question that often arises is: what actions put employers on notice of one's disability? Sometimes a disability is very apparent, but other times, an employee may have a condition that is not obvious, and the employee may never inform the employer about his or her condition. *Parker v. Comcast* involved an employee who claimed to suffer from a disability even though she never informed her employer about it. Parker claimed she suffered from anxiety and marijuana dependence. Though she never directly told her supervisors about this alleged disability, she submitted two doctor's notes to her supervisor, which she claimed put the company on notice of her disability. However, the doctor's note simply stated the days that she would be absent from work. The note had no diagnosis of any medical condition or ailment that the employee was allegedly experiencing. Parker sued her company on the grounds of disability discrimination when it fired her for missing four consecutive work days. In ruling in favor of Comcast, the court held that Parker's evidence was not enough to show Comcast knew she was disabled. There was nothing in the doctor's notes to suggest that she might be suffering from a physical or mental health disability. There was no diagnosis of her condition, treatment plan, or any stated need for accommodation. The court found these notes strongly suggested a temporary sickness and nothing more. Thus, the doctor's notes were not sufficient to show that Comcast *knew* about her disability. This case serves as an important lesson to employers to consider reviewing any evidence that may suggest a person has a disability, including the content of doctors' notes. Conversely, lack of such knowledge or evidence may also prove helpful to employers who are defending against disability discrimination suits.

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