Bond Case Briefs

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EMPLOYMENT - NEW YORK

Serdans v. New York and Presbyterian Hosp.

Supreme Court, Appellate Division, First Department, New York - December 5, 2013 - N.Y.S.2d - 2013 N.Y. Slip Op. 08133

Employee was a registered nurse and nurse practitioner specializing in critical care. She suffered from a neurological disorder for which she was treated with deep brain stimulus (DBS) through electrodes permanently implanted in her brain. Employee's DBS system is sensitive to electromagnetic radiation such as that emitted by magnetic resonance imaging systems.

Employee brought action against employer, asserting claims for disability discrimination and retaliation. The Supreme Court, New York County, denied employer's motion for summary judgment. Employer appealed.

The Supreme Court, Appellate Division, held that:

- Genuine issues of material fact existed as to whether employee suffered an adverse employment action or was treated differently;
- Employee failed to point to evidence raising an inference of discriminatory animus;
- Employee's complaint about employer's alleged failure to implement agreement to accommodate her disability was a protected activity;
- Employee failed to point to evidence of a causal nexus between her complaint and alleged adverse action; and
- Existence of genuine issue of material fact precluded summary judgment on employees claims premised on employer's alleged failure to reasonably accommodate her disability.

Genuine issue of material fact existed as to whether employer failed to implement agreement to accommodate employee's disability, by frequently canceling her work assignments and ultimately ceasing to assign her work altogether, precluding summary judgment for employer on employee's claims under the New York State Human Rights Law (NYSHRL) and the New York City Human Rights Laws (NYCHRL) for disability discrimination premised on failure to reasonably accommodate her disability.