



EMPLOYER COMES UP SMELLING LIKE ROSES IN REASONABLE ACCOMMODATION CASE: COURT REMINDS EMPLOYEE THAT SHE CAN'T ALWAYS GET WHAT SHE WANTS

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Employer Comes Up Smelling Like Roses in Reasonable Accommodation Case: *Court Reminds Employee That She Can't Always Get What She Wants*

Written by Heather C. Panick - Wednesday, February 15, 2017

An employer's failure to provide a fragrance-free work environment does not equate to a failure to provide a reasonable accommodation or an adverse action against an employee, according to the District Court for the Northern District of ***Illinois*** in ***Alanis v. Metra***. In fact, this case reiterates that employers are not required to provide every accommodation requested by an employee.

While at work in November 2011, after almost 10 years of work, Alanis began suffering from a variety of fragrance-sensitivity symptoms such as difficulty breathing and speaking. Alanis was seen by Metra's medical provider who concluded that she would return to work but gave her 30 days to obtain a psychological clearance exam. The next week, Alanis again experienced symptoms and claimed that she was unable to speak and could only communicate through text messages, in writing or by whispering. She once again saw Metra's medical provider who determined that the speaking issues prevented her from performing her job and she was "medically disqualified" from working.

Alanis took FMLA leave and applied for short-term disability. In early January, her treating physician released her to return to work. However, because she had not completed the physiological examination and received clearance, Metra did not allow her to return. Alanis submitted to this examination and was diagnosed as having a fragrance sensitivity, but was cleared to return to work in April.

Upon her return, Alanis requested the following accommodations: flexible work hours, a modified dress code, limitation on extended talking, periodic rest breaks, self-paced work-load, a fragrance-free workplace, and a private office. Metra provided every accommodation request except for the private office and fragrance-free workplace. Metra was unable to provide Alanis with a private office because the only two private offices that it had were being used by employees who handled confidential employee information, which required a private office space. Furthermore, Metra was unable to ensure that the office was completely fragrance-free, it took a number of steps and implemented new policies to ensure that the amount of fragrances were limited. For example, Metra changed the cleaning products which were used in the office and bathroom, moved Alanis' cubicle so that it was further away from the kitchen, and requested that employees not

wear perfume or cologne. Finally, Metra invited Alanis to notify it of any odor issues, and when Alanis reported an issue, Metra intervened and asked the employee to refrain from wearing perfume.

Unsatisfied, Alanis filed suit against Metra alleging that she was discriminated against based on the fact that she was Hispanic and retaliated against because of her disability. The Court found that there was no evidence of discrimination or retaliation because no adverse employment action was taken against Alanis. Furthermore, the Court found that Metra had gone above and beyond to grant her requests for accommodation, specifically noting the changes Metra made to reduce the existence of odors in the workplace.

This case serves as a good reminder that you just can't satisfy every employee. And sometimes that's ok!

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